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THE VIOLENCE AGAINST WOMEN ACT OF 1990

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Mr. BIDEN, from the Committee on the Judiciary, submitted the following

REPORT

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[To accompany S. 2754]

The Committee on the Judiciary, to which was referred the bill (S. 2754), having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1990".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes.

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and Training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1990".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that any person who commits a violation of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise provided in the guidelines, or up to twice the fine authorized in the guidelines, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) AGGRAVATED SEXUAL ASSAULT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of an offense under section 2241 of title 18, United States Code, shall receive a term of imprisonment of no less than 18 years.

(b) SEXUAL ASSAULT.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of an

offense under section 2242 of title 18, United States Code, shall receive a term of imprisonment of no less than 12 years.

(c) STATUTORY RAPE.—

(1) Section 2243(a) of title 18, United States Code, is amended by striking "5 years" and inserting "10 years".

(2) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(3) Section 2244(a)(3) of title 18, United States Code, is amended by striking "two years," and inserting "four years,".

(4) Section 2244(a)(4) of title 18, United States Code, is amended by striking "six months," and inserting "one year,".

(5) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for sections 2243(a), 2243(b), 2244(a)(3), and 2244(a)(4) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) any income lost by the victim as a proximate result of the offense;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including—

"(1) in the case of a victim who is under 18 years of age, incompetent or incapacitated, the legal guardian of the victim or the victim's estate, another family member, or any other person designated by the court; and

"(2) in the case of a victim who is deceased, the representative of the victim's estate or another family member (including a child).".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts for the purpose of

identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs working with, connected to, or within police departments, courts, prosecutors' offices or hospitals to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"(c) GRANTS FOR MULTIPLE USES.—Grants under this part must be used for at least 3 of the 5 purposes listed in subsection (b).

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crimes against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of 40 areas with the highest rates of violent crimes against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In developing the list required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data for reported crimes collected by States, municipalities or statistical metropolitan areas; and

"(2) existing data for reported crimes collected by the Federal Bureau of Investigation, including data from those entities already complying with the National Incident Based Reporting System.

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women, and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide "the certifications required by subsection (c), including a description of the nongovernmental nonprofit victim services programs to be consulted or assisted.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding

for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include "the certifications required by subsection (c), including a description of nonprofit nongovernmental victim services programs to be consulted or assisted.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 200,000;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(g) ELIGIBILITY OF STATES.—No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State incurs the full cost of forensic medical exams for victims of sexual assault. A State does not incur the medical cost for forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.".

"(h) TESTING CERTAIN SEX OFFENDERS FOR HUMAN IMMUNODEFICIENCY VIRUS.—(1) For any fiscal year beginning more than 2 years after the exclusive date of this subsection—

"(A) 90 percent of the funds allocated under subsection (a), without regard to this subsection, to a State described in paragraph (2) shall be distributed by the Director to such State; and

"(B) 10 percent of such amount shall be allocated equally among States that are not affected by the operation of subparagraph (A).

"(2) Paragraph (1)(A) refers to a State that does not have in effect, and does not enforce, in such fiscal year, a law that requires the State at the request of the victim of a sexual act—

"(A) to administer, to the defendant convicted under State law of such sexual act, a test to detect in such defendant the presence of the etiologic agent for acquired immune deficiency syndrome;

"(B) to disclose the results of such test to such defendant and to the victim of such sexual act; and

"(C) to provide to the victim of such sexual act counseling regarding HIV disease, HIV testing, in accordance with applicable law, and referral for appropriate health care and support services.

"(3) For purposes of this subsection—

"(A) the term 'convicted' includes adjudicated under juvenile proceedings; and

"(B) the term 'sexual act' has the meaning given such term in subparagraph (A) or (B) of section 2245(1) of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers or battered women's shelters, and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony and misdemeanor offenses committed by a present or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person defined as a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(f) and 1421(f).

"(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1991, 1992, and 1993, $200,000,000 to carry out the purposes of subpart 1, and $100,000,000 to carry out the purposes of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 460l-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses; and

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of violent crime.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their education, training, and experience, including experience in advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—While away from their homes or regular places of business in the performance of duties for the Commission, members of the Commission shall be al-

lowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, except to the extent that the department or agency is expressly prohibited by law from furnishing such information. On the request of the Chairman of the Commission, the head of such a department or agency shall furnish nonprohibited information to the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1991, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence that the defendant seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written

motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence that the defendant seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1990.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include--

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for junior high school and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1991, 1992, and 1993, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

(a) ELIGIBILITY OF STATES.—No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State incurs the full cost of forensic medical exams for victims of sexual assault. A State does not incur the medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"CHAPTER 110A—VIOLENCE AGAINST SPOUSES

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Restitution.
"Sec. 2264. Full faith and credit given to protection orders.
"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels or causes another (including the intended victim) to travel across State lines or in interstate commerce and who, during the course of any such travel or thereafter, does an act that injures his or her spouse or intimate partner in violation of a criminal law of the State where the injury occurs, shall be fined not more than $1,000 or imprisoned for not more than 5 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense is a simple assault by fine of not more than $1,000 or imprisonment of no more than 1 year.

"(c) CRIMINAL INTENT.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, the criminal intent of the offender required to establish an offense under this section is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person who travels or causes another (including the intended victim) to travel across State lines or in interstate commerce and who, during the course of such travel or thereafter, commits an act that violates a valid protection order issued by a State, with the intent to injure his or her spouse or intimate partner, shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

"(5) If the offense is a simple assault by fine of not more than $1,000 or imprisonment for not more than 1 year, or both.

"(b) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in this section is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the benefit of the complaining spouse pending final adjudication of the case, upon a showing of a likelihood of danger to the complaining spouse.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) any income lost by the victim as a proximate result of the offense;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including—

"(1) in the case of a victim who is under 18 years of age, incompetent or incapacitated, the legal guardian of the victim or the victim's estate, another family member, or any other person designated by the court; and

"(2) in the case of a victim who is deceased, the representative of the victim's estate or family member, including a child.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if no cross or counter petition or complaint was filed seeking such a protection order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse as defined by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than child custody or support orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as the order was issued in response to a complaint of an abused spouse or intimate partner; and

"(3) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses ..... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than child custody or support orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes abuse of a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits with the abuser as a spouse.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $75,000,000 for each of the fiscal years 1991, 1992 and 1993.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 85 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. STATE COMMISSIONS ON DOMESTIC VIOLENCE.

Section 303(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)) is amended—

(1) by striking "and" of the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) provides assurances that, not later than 1 year after receipt of funds, the State shall have established a Commission on Domestic Violence to examine issues including—

"(i) the use of mandatory arrest of accused offenders;

"(ii) the adoption of 'no-drop' prosecution policies;

"(iii) the use of mandatory requirements for presentencing investigations;

"(iv) the length of time taken to prosecute cases or reach plea agreements;

"(v) the use of plea agreements;

"(vi) the testifying by victims at post-conviction sentencing and release hearings;

"(vii) the consistency of sentencing practices;

"(viii) restitution of victims;

"(ix) the reporting practices of and significance to be accorded to prior convictions (both felonies and misdemeanors); and

"(x) such other matters as the Commission believes merit investigation.

In implementing this requirement, State grantees must certify to the Secretary that—

"(aa) no less than one-third of Commission members be victim advocates associated with nonprofit shelters; and

"(bb) no more than 2 percent of the grant monies awarded shall be used to support the required Commission.".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated, shall make $1,000,000 available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by striking ", and" and all that follows through "fiscal years".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No demonstration grant may be made under this section to an entity other than a State unless the entity provides 50 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by—

(1) striking "not less than 60 percent" and inserting "not less than 75 percent"; and

(2) striking "immediate shelter and related assistance to victims of family violence and their dependents" and inserting "shelter and related assistance to victims of family violence and their dependents, including any, but not requiring all of the following—

"(1) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(2) transportation, legal assistance, referrals, and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(3) comprehensive counseling about parenting, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services, employment training, social skills (including communication skills), home management, and assertiveness training; and

"(4) day care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311(b) of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is amended by adding at the end thereof the following new subparagraph:

"(d) Training grants may be made under this section only to private nonprofit organizations that have experience in providing training and technical assistance to law enforcement personnel on a national or regional basis.".

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence; and

"(3) facilitate 'mandatory arrests' and 'no-drop' prosecution policies.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) develop and disseminate statewide prosecution policies that—

"(A) include a no-drop policy once prosecution is underway;

"(B) implement model projects for the vertical prosecution of domestic violence cases and special units devoted to domestic violence;

"(C) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(D) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(3) develop and disseminate statewide guidelines for judges that—

"(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only one spouse has sought a restraining or protective order;

"(B) discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(4) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants or contracts with public or pri-

vate nonprofit organizations, for the establishment and maintenance of one national resource center and five regional resource centers serving defined geographic areas. The national resource center shall offer resource, policy, and/or training assistance to Federal, State, and local agencies on issues pertaining to domestic violence, serve a coordinating and resource-sharing function among the regions, and maintain a central resource library. The regional resource centers shall provide information, training and technical assistance to State and local domestic violence services. In addition, each regional center shall specialize in a unique area of domestic violence service, prevention or law, including one or more of the following:

"(1) Public awareness and prevention education;
"(2) Criminal justice response to domestic violence;
"(3) Domestic violence related to child custody issues;
"(4) Domestic violence victim self-defense;
"(5) Clergy training on family violence;
"(6) Child abuse and domestic violence;
"(7) Medical personnel training;
"(8) Enhancing victims' access to effective legal assistance; and
"(9) Court-mandated abuser treatment.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs in the region who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates in the region for their designation as the regional resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.

"(e) FUNDING.—From the sums appropriated under section 310 of this title, not in excess of $2,000,000 for each fiscal year shall be used for the purpose of making grants under this section.".

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender crimes, which separates these crimes from acts of random violence, nor do they adequately provide victims the opportunity to vindicate their interests.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence overwhelmingly motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who deprives another of the rights, privileges or immunities secured by the Constitution and laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages.

(d) DEFINITION.—For purposes of this section, a "crime of violence overwhelmingly motivated by the victim's gender" means any crime of violence (as that term is defined in section 16 of title 18, United States Code), including any rape, sexual assault, or abusive contact, motivated by gender.

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION

"SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (c) of this section.

"(b) GRANTS FOR MODEL DEMONSTRATION PROJECTS.—Grants shall be available for model demonstration programs to be coordinated with local rape crisis centers for development and implementation of quality rape prevention and education curricula and for programs that make use of peer-to-peer student education.

"(c) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants shall be available under this subsection to develop, implement, operate, and improve rape education and prevention for students enrolled in institutions of higher education.

"(d) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds paid under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $10,000,000 for the fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994.".

SEC. 404. DISCLOSURE OF DISCIPLINARY PROCEEDINGS IN SEX ASSAULT CASES ON CAMPUS.

Section 438(b) of the General Education Provisions Act (20 U.S.C. 1232g(b)) is amended by adding at the end thereof the following new paragraph:

"(6) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to a victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), the results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime with respect to such crime.".

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1990".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The Attorney General shall provide funds to the State Justice Institute for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that subjects victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant and the inappropriateness of holding such victims in contempt of court;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' failure to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel;

(18) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(19) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The Attorney General shall ensure that model programs carried out pursuant to grants made under this subtitle are developed in conjunction with, and with the participation of, law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts drawn from the legal and social science professions.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1991, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The the Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed in conjunction with, and with the participation of, law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts drawn from the legal and social science professions.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1991, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

I. PURPOSE

This legislation responds to a widespread—and growing—national problem: violence against women. To most Americans, the phrase "violence against women," calls to mind sensational, well-publicized cases of brutality trumpeted by newspapers: "four freshmen women killed at the University of Florida," or "a jogger brutalized by a gang on a wilding spree in central park." But, when Chairman Biden introduced the Violence Against Women Act of 1990, he explained that "while such stories rivet our attention, we must understand that this is not a problem of one or two horrible incidents. Violent crime against women happens every day in this country—every day, every hour, every minute." [1] In fact, every 6 minutes, a woman is raped; every 15 seconds, a woman is beaten.[2]

It was the minute-by-minute and day-by-day violence against women—not a single sensational story—that led to the introduction of the Violence Against Women Act of 1990. And it was the realization that the numbers of victims are growing that made swift committee consideration imperative. Over the past 10 years,

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[1] Opening Statement of Senator Joseph R. Biden, Jr., before the Senate Judiciary Committee, June 20, 1990.

[2] FBI Uniform Crime Reports, "Crime in the United States" 7 (1988); National Coalition Against Domestic Violence fact sheets (on file with the Senate Judiciary Committee).

the rape rate has risen 4 times as fast as the total crime rate.[3] And over the past decade-and-a-half, assaults against young women have risen almost 50 percent.[4]

These facts cry out for a legislative response—a legislative response more comprehensive and more ambitious than any undertaken before to address violence against women. As Chairman Biden put it, "It is time to take on this national outrage, and it is time to deal with it and make people aware of it." [5] The purpose of the Violence Against Women Act of 1990 is to provide the kind of comprehensive response to violent crime that American women need today.

This legislation is targeted to help women not because of the myth that women are the weaker sex, but because many crimes affect women disproportionately and some crimes may be committed simply because of a woman's gender. In the past, the Congress has passed specific laws to guarantee women's right to be treated the same as other crime victims, such as the rape shield law. This legislation is built on similar principles.

Title I of the bill—the Safe Streets for Women Act—declares violence against women a major law enforcement priority, authorizing substantial resources—$300 million—to put more police officers on the street, more prosecutors in the courts, and more advocates at victims' sides. This is a national problem and we need national resources to fight it.

This title also targets specific areas in our criminal justice system: doubling penalties for rape and aggravated rape in Federal cases; creating new evidentiary rules to shield victims from embarrassing questions about their prior sexual history in criminal and civil cases; encouraging States to pay for forensic rape exams and to pass laws to test convicted rapists for AIDS. Finally, this title increases funding for programs we know work: more lights and emergency telephones in parks and public transit, and rape prevention and education programs to attack the attitudes that nurture violence.

Title II of the bill—the Safe Homes for Women Act—confronts a growing crisis of millions of women a year who are the victims of violent crime in their own homes—what is often termed "domestic" violence. The bill protects women who flee their abusers by creating Federal penalties for spouse batterers who cross state lines and by making protective court orders issued in one state valid in the 49 others. This title also encourages States to treat domestic violence as a crime, and not as a quarrel, by encouraging states to arrest abusive spouses. Finally, title II triples Federal funding for battered women's shelters and makes a number of improvements in existing family violence laws.

Title III—Civil Rights for Women—declares all felonies "motivated by gender" to be hate crimes entitling their victims to protection under Federal civil rights laws. Current State criminal and

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[3] Judiciary Committee calculation, based on FBI Uniform Crime Reports, "Crime in the United States" 47 (1988).

[4] Judiciary Committee calculation, based on Bureau of Justice Statistics, "Criminal Victimization in the United States," table 5 (1974); Id. Table 5 (1988).

[5] Senator Joseph R. Biden Jr., Opening Statement before the Senate Judiciary Committee, August 29, 1990.

civil laws do not specifically prohibit or address "hate" or "bias" crimes motivated by gender. This title responds by declaring, for the first time, that gender-motivated crimes are just as much a civil rights violation as crimes motivated by race or religion.

Title IV—The Safe Campuses for Women Act—focuses on a special problem: violence against women on college campuses. This title creates new Federal incentives for rape education on college campuses and requires colleges and universities to tell rape survivors about the outcome of any disciplinary proceedings initiated against their attackers.

Title V of the bill—The Equal Justice for Women in the Courts Act—was drafted by Senator Simon to address the problems in judicial handling of cases involving violent crimes against women. It authorizes a comprehensive education program on a number of topics for both Federal and state judges.

II. Legislative History

A. INTRODUCTION AND CONSIDERATION OF S. 2754

On June 19, 1990, Chairman Biden, joined by Senators Metzenbaum, Simon, and DeConcini, introduced S. 2754, the Violence Against Women Act of 1990. A companion bill, H.R. 5468, was introduced in the House of Representatives by Representative Barbara Boxer on August 3, 1990.

The Judiciary Committee held two hearings on S. 2754 during the summer of 1990. The first hearing, held on June 20, 1990, featured testimony from crime survivors and legal experts. Marla Hanson and Nancy Ziegenmeyer testified about the tragic personal costs of violence against women, and the failures of the criminal justice system's response. Other witnesses included experts on violent crimes against women: Linda Fairstein, chief of the Sex Crimes Prosecution Unit in the Manhattan District Attorney's office; and Roni Young, director of the Domestic Violence Unit, State's Attorney's Office, Baltimore, MD. Finally, Helen Neuborne, executive director of the NOW Legal Defense and Education Fund testified in support of the bill's civil rights remedy.

The committee held its second hearing on August 29, 1990. This hearing focused on the peculiar vulnerability of young women to serious crimes such as rape. Professor Mary Koss, a leading expert on rape, announced her new findings, showing rape figures 10 to 15 times higher than official reports, and emphasizing that the young are particularly at risk. Two young survivors of rape, Christine Shunk and Nicole Snow, testified about the personal tragedy of acquaintance rape, the vulnerability of students on college campuses, and the crimes' longlasting impact upon the victim. Other witnesses included Robin Warshaw, a researcher and author in the field, and Erica Strohl, a student advocate for campus rape prevention programs.

B. REVISION OF S. 2754

Since the introduction of S. 2754 in June, numerous individuals and organizations have reviewed the legislation and offered suggestions to improve the bill. Among the organizations and individuals

who commented, and made recommendations, on the legislation were:

NOW Legal Defense and Education Fund, New York, NY;
National Woman Abuse Prevention Project, Washington, DC;
National Coalition Against Sexual Assault, Washington, DC;
National Network for Victims of Sexual Assault, Arlington, VA;
National Victim Center, Fort Worth, TX;
Lisa G. Lerman, professor of law, Catholic University;
National Center on Women & Family Law, Inc., New York, NY;
Martha L. Minow, professor of law, Harvard Law School;
Elizabeth Schneider, professor of law, Brooklyn Law School;
Family Violence Project, San Francisco, CA; and
Burt Neuborne, professor of law, New York University School of Law.

Based on suggestions from these groups and others, and after consultations with several other Senators on the committee, a modified version of S. 2754 was offered by Chairman Biden at the October 4, 1990, executive business meeting of the Judiciary Committee. Amendments to the substitute were offered by Senators Hatch and Simon. Each amendment was accepted by voice vote. The substitute was then reported favorably out of committee by voice vote.

III. Discussion

Title I—Safe Streets for Women Act of 1990

A. VIOLENCE AGAINST WOMEN: THE SCOPE OF THE PROBLEM

No woman is immune from violent crime in this country. Of American women alive today, three out of four will be the victim of at least one violent crime. One of the most violent crimes, rape, rose four times as fast as the total national crime rate over the past 10 years.[6] Last year, 3 to 4 million women were abused by their husbands—a number greater than the women who were married.[7] And 1.7 million Americans have at some time faced a spouse wielding a knife or a gun.[8]

1. The gender gap in violence

Women are more vulnerable to crime today than 15 years ago—a fact that reflects a spiralling "gender gap" of violence. Since 1974, the assault rate against women has outstripped the rate for men by at least twice for some age groups and far more for others.[9] While

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[6] Based on figures from FBI, "Uniform Crime Reports" (1988).
[7] National Coalition Against Domestic Violence; "The World Almanac" 839 (1989).
[8] National Institute of Justice, "Confronting Domestic Violence: A Guide For Criminal Justice Agencies" 7 (1986).
[9] For example, from 1974 until 1987, the rate of assaults against girls aged 12-15 (+31.41 percent) increased close to twice as much as assaults against young boys (+16.53 percent). The comparative rate for girls 16-19 was similar (+5.50 percent for girls; +2.76 percent for boys). A dramatic rise occurs in the next age group: an almost 50 percent increase for young women 20-24, compared to a 12 percent decrease for men. For women age 25-34, the rate dips slightly, down by 4.46 percent, but the male rate declined 5 times that, by 26.16 percent. For no age group is the female rate increasing less than twice the male rate. Bureau of Justice Statistics, "Criminal Victimization in the United States," table 5 (1974); Id. Table 5 (1988).

female victimization is increasing faster than male victimization (at least for some crimes), the number of female offenders is "far outweighed" by increases in the number of male offenders. One researcher recently concluded that there is "an overwhelming concentration of male offenders in crimes of violence." [10]

The young are bearing the brunt of this "gender gap." While young women are being attacked today at a rate 50 percent greater than in 1974, young men are being attacked less often, by 12 percent.[11] While rape rates are increasing, it is the young who are at the greatest risk: women aged 16 to 19 are the most likely to be raped.[12] According to one study, close to half a million girls now attending high school will be raped before they graduate.[13]

2. Government figures underestimate violence

Official statistics on crimes against women—numbers issued by the FBI and the Bureau of Justice Statistics—are disturbing enough when they tell us that a woman is raped every 6 minutes in this country. But testimony before the committee by one expert revealed that the official statistics may actually underestimate the true incidence and prevalence of rape in this country.

We have known for some time that rape is an underreported crime. Linda Fairstein, head of the Manhatten sex crimes unit, testified that sexual assualts "remain the most underreported cases within the criminal justice system." [14] For that reason, "it is almost certain that the national estimate of * * * rapes and rape attempts * * * understates the total number.[15] Until now, however, we had no idea of how much the official numbers underestimate the problem.

Testimony by Dr. Mary Koss, on behalf of the American Psychological Association, showed that official rape rates may be as much as 10–15 times too low. [16] According to Dr. Koss, "[Government] data create a false picture of rape." While official data suggest rape is a "rare" crime, "a large body of research * * * indicates that substantial numbers of rapes are occurring that the [Government estimates] fail[ ] to detect." [17]

Dr. Koss and other witnesses focused attention not only on the extent of the rape problem in this country, but also on the special and growing problem of "acquaintance rape." Many people incorrectly believe that "real rape" only happens when "strangers jump out of bushes" and attack unsuspecting victims and that rape by someone the victim knows—rape by an acquaintance—is somehow less serious than "stranger rape." [18]

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[10] C. Kruttschnitt, "Gender and Interpersonal Violence," 6, 11, 19 (1989) (working paper submitted to the National Academy of Sciences on file with the Senate Judiciary Committee).

[11] Judiciary Committee calculation, based on Bureau of Justice Statistics, "Criminal Victimization in the United States," table 5 (1988); Id. Table 5 (1974).

[12] Bureau of Justice Statistics, "Criminal Victimization in the United States," table 5, p. 19 (1987).

[13] R. Warshaw, "I Never Called It Rape" 117 (1988).

[14] Linda Fairstein, testimony before the Senate Judiciary Committee (June 20, 1990).

[15] Dr. Mary Koss, written testimony submitted to the Senate Judiciary Committee (Aug. 29, 1990) (quoting the Department of Justice).

[16] Dr. Mary Koss, testimony before the Senate Judiciary Committee (Aug. 29, 1990).

[17] Id.

[18] As one researcher has noted, it may be easier for us to think of rape as a crime by strangers because then we can "distance ourselves" to "see it as irrelevant to [our] lives." L. Bourque, "Defining Rape" 286 (1989).

The testimony of several witnesses, including victims, made clear that these attitudes must change. Women raped by strangers and women raped by acquaintances experience their rapes as "equally violent"—"the victims were equally likely to have feared serious injury or think that they might die." [19] Even official statistics acknowledge that there is a serious acquaintance rape problem: 46 percent of rapes, according to the Justice Department, are committed by persons the victim knows.[20]

Some have suggested that Dr. Koss's findings exaggerate rape numbers. But hers is only one of several independent studies concluding that "official" figures are seriously too low. For instance, a 1984 study found that rapes occur seven times more often than according to "official" sources.[21] Further, another rape researcher, Dr. Dean Kilpatrick, testified recently before a House committee that "virtually all rape experts agree that the NCS (National Crime survey) estimates of the number of rape cases are substantially inaccurate and low." [22]

The rape statistics provided to the committee may reflect a number of factors, including the public's increased appreciation for the special problem of "acquaintance rape." The committee also notes that the Department of Justice has stated that it has recently revised the way it conducts its rape survey to obtain a more accurate figure. The new survey will be phased in over the next three years.[23]

3. The individual and societal cost

Violence against women takes a devastating toll on individuals and on society. The personal impact is, no doubt, difficult for many to appreciate. But, unless we try, we will have lost an important dimension of the problem. The committee was urged by those who had survived not to "define rape without some consideration of the trauma experienced by the victim." [24]

An assault may be over in moments, but felt for a lifetime. Nancy Ziegenmeyer, an Iowa housewife and rape survivor, explained to the committee, "the person that I was on the morning of November 19, 1988, was taken from me and my family. I will never be the same for the rest of my life." [25] Christine Shunk, a paralegal and victim of two brutal attacks explained that she did not know if she could possibly survive a third—"You see, being raped is like having your whole world turned upside down. You suddenly lose control over your body and self-esteem. You have no power. It does not matter where you are, you cannot escape." [26] And Marla

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[19] Dean Kilpatrick, rape researcher, quoted in the Washington Post (Sept. 4, 1990); see Testimony of Christine Shunk, Nicole Snow, Dr. Mary Koss, before the Senate Judiciary Committee (Aug. 29, 1990).

[20] Bureau of Justice Statistics, "Criminal Victimization in the United States" 43 (1987).

[21] Testimony of Dr. Mary Koss, before the Senate Judiciary Committee (June 20, 1990) (discussing Russell study).

[22] Prepared statement of Dean G. Kilpatrick, Ph.D., Crime Victims Research and Treatment Center, before the Select Committee on Children, Youth and Families (June 28, 1990).

[23] Stephen Dillingham, nominee to head the Bureau of Justice Statistics, Department of Justice, testimony before the Senate Judiciary Committee (July 18, 1990).

[24] Nancy Ziegenmeyer, testimony before the Senate Judiciary Committee, June 20, 1990.

[25] Id.

[26] Christine Shunk, testimony before the Senate Judiciary Committee, Aug. 29, 1990.

Hanson, the victim of a brutal slashing attack, explained how her career was lost, and her life changed: it was not a matter of the scars which would heal; she lost her modelling career because no one wanted to photograph a face that represented "violence." [27]

If the cost to the individual is grave, the cost to society is staggering. It is not a simple matter of adding up medical costs, or law enforcement costs, but of adding up all those expenses plus the costs of lost careers, decreased productivity, foregone educational opportunities, and long-term health problems. Partial estimates show that violent crime against women costs this country at least 3 billion—not million, but billion—dollars a year.[28]

4. Double victimization: violent crime, attitudes, and the criminal justice system

During the past 20 years, many sincere efforts have been launched to assist victims of crime and, in particular, victims of rape and domestic violence. Rape laws now focus on the defendant's acts rather than the victim's behavior. Sex crimes units and domestic crimes units have sprouted in major metropolitan areas. Localities have provided "victim" assistance to guide survivors through the court process.

But the promise of these changes has not always been realized.[29] It is still easier to convict a car thief than a rapist.[30] Victims are still being asked irrelevant and harassing questions about their prior sexual history in assault and kidnapping cases.[31] And, in one witness's opinion, rape is still underreported and underprosecuted.[32]

Unfortunately, a disturbing aspect of gender crimes is how survivors often suffer from a sense of "double victimization"—victimization first by the attacker and, second, by society. More than one witness explained to the committee that "the system" is often an alien environment, contributing less to their assistance than to their sense of revictimization.[33]

As one witness put it: "[I]t never occurred to me to blame myself for my own attack; that is, until the courts, the press and society began to insinuate and to question if I were the architect of my

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[27] Marla Hanson, testimony before the Senate Judiciary Committee, June 20, 1990.

[28] E. Schneider, "Legal Reform Efforts for Battered Women: Past, Present, and Future" at 4 (prepared for the Ford Foundation, July, 1990).

[29] See, e.g., L. Bourque, "Defining Rape" 127 (1989) ("the effect of reform in some jurisdictions may be more show than substance"); C. Kruttschnitt, "Gender and Interpersonal Violence" 67 (paper for the National Academy of Sciences) ("Legal reforms aimed at increasing conviction rates and reducing the role of victim attributes in the processing of sexual assualt cases have been, at best, only partially successful").

[30] See National Center for Policy Analysis, "Crime Pays But So Does Imprisonment" (March 1990) (based on Bureau of Justice Statistics "Sourcebook" 412 (1987)); H. Feild & L. Bienen, "Jurors and Rape: A Study in Psychology and Law" 95 (1980) ("an individual who commits rape has only about 4 chances in 100 of being arrested, prosecuted, and found guilty of any offense").

[31] Linda Fairstein, Marla Hanson, testimony before the Senate Judiciary Committee (June 20, 1990).

[32] Testimony of Linda Fairstein before the Senate Judiciary Committee, June 20, 1990.

[33] Testimony of Christine Shunk, Marla Hanson, before the Senate Judiciary Committee (June 20 and Aug. 29, 1990); see C. Kruttschnitt, "Gender and Interpersonal Violence" (paper prepared for the National Academy of Sciences, 1990) ("women are generally reluctant to report many types of assaults, especially sexual assaults . . . This reluctance appears to stem from, among other factors, fear as to how the 'system' will treat them in their role as victims").

own suffering." [34] Another wrote: "if the system continues to badger and blame women for the crimes they experience, it will not be long before we say, 'what's the point?'" [35]

To some extent, this sense of "double victimization" is a sad, but inevitable, byproduct of a criminal justice system in which cases are brought in the name of the State, not the victim. Even so, the testimony suggested that there are ways to reduce its impact. Added resources for prosecutors, court advocates, and judicial training can help and so can new rules to protect victims from irrelevant and embarrassing courtroom experiences.

While these efforts may provide some relief, there is reason to believe that the sense of "double victimization" will only end when attitudes about violent crimes against women have changed. Testimony before the committee suggested that, despite improvement, negative attitudes toward crimes against women are still present in our criminal justice systems. Jurors may refuse to convict a defendant because of what the vicitim was wearing, such as a lace miniskirt.[36] Defense lawyers pursue questions about a victim's prior sexual history, even in cases of simple assault.[37]

This may reflect more general societal attitudes. One researcher reports that "[s]ubstantial numbers of persons across the nation use technically irrelevant, extra-evidentiary information to decide whether a rape occurred or find it difficult to call any sexual assault rape." [38] Another study found that two-thirds of 1,000 people surveyed believed that rape could be "provoked by women's behavior or appearance"; one-third felt that women should be held responsible for "preventing their own rape"; and 11 percent placed the blame for the rape on women by indicating that "If a woman was raped, she was asking for it." [39] Finally, there is evidence that such attitudes may be prevalent even among the very young. In one study of teenage boys and girls, students were asked if it was "OK to force sex" on a girl if the boy spent $10 or more on her. Nearly one-fourth of the boys agreed, but so did nearly one-fifth of the girls.[40]

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[34] Testimony of Marla Hanson before the Senate Judiciary Committee (June 20, 1990) ("the term 'victim' implies innocence, but it seems in this society the term 'innocence' implies some sort of guilt").

[35] Letter by rape victim (on file at the Senate Judiciary Committee).

[36] See "Rape Victims' Garb Called Irrelevant," Miami Herald (Apr. 6, 1990).

[37] Marla Hanson, testimony before the Senate Judiciary Committee (June 20, 1990); see generally C. Kruttschnitt, "Gender and Interpersonal Violence," 72 (paper prepared for the National Academy of Sciences) (stating that two recent studies by LaFree and Smith "found that cases involving female victims and/or nonwhite victims were treated less seriously by the police and the courts").

[38] L. Bourque, "Defining Rape" 285 (1989).

[39] H. Feild & L. Bienen, "Jurors and Rape: A Study in Psychology and Law" 54 (1980); see also G. LaFree, "Rape and Criminal Justice" 225 (1989) ("many jurors claim that through their clothing and behavior women often 'ask' to be raped").

[40] Written testimony of R. Warshaw before the Senate Judiciary Committee (Aug. 29, 1990) (citing Rhode Island Rape Crisis Center Study); see also L. Bourque, "Defining Rape" 139 (1989); see id. at 141 ("studies [of adolescents] are consistent in assigning some degree of responsibility to the female even when she is attacked with a significant amount of force by a stranger"); see generally Goodchilds, Zellman, Johnson, & Giarrusso, "Adolescents and Their Perceptions of Sexual Interactions," in "Rape and Sexual Assualt II" 255 (Burgess ed. 1988) (showing one half of male and one fourth of female adolescents think it "OK to force sex" if the girl "has led the guy on").

B. THE LEGISLATIVE RESPONSE: SAFE STREETS FOR WOMEN

This is the background that led the Committee, under the direction of Chairman Biden, to consider the first comprehensive package of legislation targeting violent crimes against women. As Chairman Biden stated, in opening the first hearing on S. 2754, "if we don't prioritize this crime against women, it's going to get worse, and we can't afford for it to get much worse." [41]

Title I of the Act—the Safe Streets for Women Act—signals that crimes against women must be taken "seriously" as a law enforcement priority. First, it insures that States will have the kind of resources necessary to step up police protection, prosecution, and conviction: $300 million is targeted both for "high intensity" crime areas, and underserved populations in rural and suburban America. The funds may be used to combat all crimes against women, including sexual assault and domestic violence. And, to insure a coordinated community response, monies are contingent on participation by local victim advocate groups.

Title I also responds to a number of the specific problems in the criminal justice system identified by testimony before the committee. First, it makes significant improvements in the Federal system's response to crimes against women, increasing the penalties for rape and aggravated rape, expanding existing evidentiary protections to insure that no crime victim will be subjected to harassing questions about her prior sexual history, and adding new protections to bar the use of a victim's clothing to show that she incited or invited a rape.

Second, the bill encourages certain essential State law reforms. Right now, some States require victims to pay for their own rape exams, even though victims generally do not pay for any other evidence necessary to convict their attackers. To obtain funds under this bill, States must pass laws that require payment for forensic rape exams. Similarly, too few States recognize the special risks of the AIDS virus for rape victims. To encourage laws that permit testing for AIDS at the request of the victim, the bill provides that States without such laws will lose 10 percent of funds provided under the bill.

Third, this title takes simple, but necessary, measures to insure that women can travel safely in public parks and on public transit. Existing funding is earmarked to put more lights and security cameras in bus stops and adjacent parking lots, in national parks, state parks, and subway stations.

Finally, this title recognizes that we cannot effectively combat violent crimes against women unless we begin to change the kind of attitudes that nurture violence. Accordingly, it authorizes a twentyfold increase in funding for rape prevention and education, as early as junior high school.[42] These much needed funds will help volunteer organizations like rape crisis centers and battered women's shelters, that currently devote their meager budgets to re-

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[41] Opening Statement of Senator Joseph R. Biden, Jr., before the Senate Judiciary Committee, June 20, 1990.

[42] L. Bourque, "Defining Rape" 295 (1989) ("Adolescents and their parents are probably the best groups to target for educational programs"); Robin Warshaw, testimony before the Senate Judiciary Committee (June 20, 1990).

pairing individuals' shattered lives, to reach out to share their wisdom and expertise with the community.

Title II—Safe Homes For Women Act of 1990

A. VIOLENCE BEHIND CLOSED DOORS: SPOUSE ABUSE

If the number of violent crimes against women on the street, in parks, and in public transit daunt us, the number of violent crimes in the home should stun. Three to 4 million American women a year are victims of felonious assaults in the home. These crimes have, for too long, been hidden "behind closed doors." [43] The Nation must recognize, as a whole, that these crimes should be taken just as seriously as any other assault.

In nineteenth century America, courts drew a curtain around the home, refusing to intervene in cases of spouse abuse.[44] Some courts even sanctioned the "salutary restraint of domestic discipline" but applied the "rule of thumb" limiting "chastisement" to a stick no bigger than a man's thumb.[45] Up until as late as 15 years ago, many jurisdictions refused to arrest and prosecute spouse abusers, even though a comparable assault on the street by a stranger would have led to a lengthy jail term.[46]

1. A crime, not just a quarrel

The term "domestic violence" may sound tame, but the behavior it describes is far from gentle. Statistics present a chilling picture of just how serious—indeed even lethal—spouse abuse may be. Between 2,000 and 4,000 women die every year from abuse.[47] Every day, four women are killed by their male partners and, in many of those cases, the homicides are the culmination of repeated, but lesser, abuse.[48] One-third of all domestic violence cases, if reported, would be classified by police as felony rape, robbery, or aggravated assault; the remaining two-thirds involve bodily injury at least as serious as the injury inflicted in 90 percent of all robberies and aggravated assaults.[49]

Unlike other crimes, spouse abuse is "chronic" violence. It is persistent intimidation and repeated physical injury. Absent intervention "one can almost guarantee that the same woman will be assaulted again and again by the same man." [50] One study showed

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[43] M. Straus, R. Gelles & S. Steinmetz, "Behind Closed Doors: Violence in the American Family" (1980).

[44] *Thompson* v. *Thompson*, 218 U.S. 611 (1868) (denying right of wife to maintain action against her husband for assault and battery based on common law theory of the unity of husband and wife).

[45] See *Bradley* v. *State*, 2 Miss. (1 Walker) 156 (1824) (applying rule permitting husbands "who might think proper to use a whip or rattan, no bigger than my thumb, in order to enforce the salutary restraints of domestic discipline"); *State* v. *Rhodes*, 61 N.C. 445 (1868) (upholding, on other grounds, decision of lower court that "His Honor was of opinon that the defendant had a right to whip his wife with a switch no larger than his thumb, and that upon the facts found in the special verdict he was not guilty in law").

[46] E. Gondolf, "Wife Battering," "Case Studies in Family Violence" 2 (forthcoming).

[47] E. Schneider, "Legal Reform Efforts for Battered Women: Past, Present, and Future" (prepared for the Ford Foundation, July 1990).

[48] National Woman Abuse Prevention Project Fact Sheet (relying on FBI statistics).

[49] National Institute of Justice, "Civil Protection Orders: Legislation, Current Court Practice, and Enforcement" at 4 (1990).

[50] Cahn & Lerman, "Prosecuting Spouse Abuse," at 5 (forthcoming in "Redefining Crime: Responses to Spouse Abuse" (M. Steinman, ed.)).

that, over a 6-month period following a domestic violence incident, one-third of the victims will be subject to another rape, robbery, aggravated or simple assault.[51] And this chronic abuse often escalates. One study showed that in over half of all murders of wives by their husbands, police had been called to the residence five times in the previous year to investigate a domestic violence complaint.[52]

Spouse abuse is serious, it is chronic, and it is a problem national in scope. The 3 to 4 million women abused each year are not located in any one area, among any one socio-economic group, or from any particular race, ethnic or religious group. The common perception that battering affects only poor, uneducated, and minority populations, is simply incorrect. No American community and no American family is immune.[53]

2. The costs of chronic violence

The costs of domestic violence must be measured in the lives and health of American women. According to the Surgeon General, battering "is the single largest cause of injury to women in the United States." [54] Over 1 million women in the United States seek medical assistance each year for injuries sustained by their husbands or other partners.[55] As many as 20 percent of hospital emergency room cases are related to wife battering.[56]

But the costs do not end there: woman abuse has "a devastating social and economic impact on the family and the community." [57] It takes its toll in the systematic destruction of lives of the entire family. In homes where there is domestic violence, children are abused or seriously neglected at a rate 1500 percent higher than the national average.[58] It takes its toll in homelessness: one study reports that as many as 50 percent of homeless women and children are fleeing domestic violence.[59] It takes its toll in employee absenteeism and sick time for women who either cannot leave their homes or are afraid to show the physical effects of the violence.[60]

3. The need for a Federal response

In the past 15 years, report after report issued by the Federal Government, both from the Congress and from the Administration,

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[51] Id. at 5.

[52] National Woman Abuse Prevention Project fact sheet (based on data from the Department of Justice).

[53] For example, the National Woman Abuse Prevention Project reports that the mostly white, upper-middle class Washington, D.C. suburb of Montgomery County, Maryland received as many domestic disturbance calls as were received over the same period in Harlem. National Woman Abuse Prevention Project fact sheet.

[54] Van Hightower & McManus, "Limits of State Constitutional Guarantees: Lessons From Efforts to Implement Domestic Violence Policies," 49 Public Administration Review 269, 269 (May/June 1989).

[55] E. Stark & A. Flitcraft, "Medical Therapy as Repression: The Case of the Battered Woman," Health and Medicine (Summer/Fall 1982).

[56] Van Hightower & McManus, "Limits of State Constitutional guarantees: Lessons From Efforts to Implement Domestic Violence Policies," 49 Public Administration Review 269, 269 (May/June 1989).

[57] Id. at 3.

[58] National Woman Abuse Prevention Project Fact Sheet.

[59] E. Schneider, "Legal Reform Efforts for Battered Women: Past, Present, and Future" (prepared for the Ford Fondation, July 1990).

[60] Id.

from Democrats and Republicans, has hailed the growing problem of spouse abuse, decrying this "epidemic," and "leading" national health problem.[61] Despite these outcries, little concrete assistance has materialized. A recent report prepared for the Ford Foundation states that Federal support is seriously lacking and that funding for domestic violence is "minuscule." [62]

This indictment is particularly damning because many existing federal reports acknowledge that there are ways to stop this chronic violence. One of the most important ways is to take domestic violence seriously—to treat it like any other criminal assault. Arrest can stop abuse: police intervention may lead to as much as 62 percent fewer subsequent assaults, whether or not the abuser is actually convicted.[63] Similarly, prosecution, with or without victim cooperation, can stop abuse. When one community instituted a policy to encourage prosecutors to sign domestic violence complaints—as they do for every other violent crime—complaints increased by over 100 percent.[64] Finally, proper judicial treatment of domestic violence can stop abuse: incarceration of repeat offenders, even for a limited period of time, is a singificant deterrent to repeated abuse.[65]

The good news is that, by 1990, significant legal reforms are in place in many States. To counteract the historical presumption against arrest in domestic violence cases, many States have enacted legislation that encourages arrest and some States even require or mandate arrest of spouse abusers. Battered women also have new legal tools: 48 States have what are known as "civil protection" orders—orders that require an abusing spouse to "stay away" and cease violent behavior. These orders are typically easier to obtain than a criminal conviction and their violation may amount to a misdemeanor or require arrest.[66]

The bad news, unfortunately, is that both despite and because of these welcome legal reforms, there remains much to be done. First, law reform has not always produced results. Arrests are now authorized, but arrest rates may be as low as 1 for every 100 domestic assaults.[67] Communities may change their policies, but implementation does not follow. The Nation's capital is a case in point: while police protocols tell officers to arrest in domestic violence situations, one study showed that arrests were made in only 5 percent of all cases, and less than 15 percent of cases where the victim was

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[61] Id. at 8. These reports include: "Under the Rule of Thumb, Battered Women and the Administration of Justice," Report to the U.S. Commission on Civil Rights (1982); "Report of the Attorney General's Task Force on Family Violence" (1984); National Institute of Justice, "Confronting Domestic Violence: A Guide for Criminal Justice Agencies" (1986); "The Family Violence Prevention and Services Act: A Report to Congress," (1988); and National Institute of Justice, "Civil Protection Orders: Legislation, Current Court Practice, and Enforcement" (March 1990).

[62] E. Schneider, "Legal Reform Efforts for Battered Women: Past, Present, and Future" 8, 19 (prepared for the Ford Foundation, July 1990).

[63] Bureau of Justice Statistics, Special Report, "Preventing Domestic Violence Against Women," 1 (August 1986).

[64] Cahn and Lerman, "Prosecuting Women Abuse," at 11 (forthoming in "Redefining Crime: Responses to Spouse Abuse" (M. Steinman, ed.)).

[65] Laurence Sherman and Richard Berk, "Minneapolis Domestic Violence Experiment," Police Foundation Reports, Washington, DC, Policy Foundation (1984).

[66] For a comprehensive discussion of these reforms, see National Institute of Justice, "Civil Protection Orders: Legislation, Current Court Practice, and Enforcement" (1990).

[67] D. Dutton, Profiling of Wife Assaulters: "Preliminary Evidence for Trimodal Analysis," 3 "Violence and Victims" 5–30.

bleeding from wounds.[68] Isolated success stories—like a program in Duluth, Minnesota that drastically reduced domestic violence rates—have not been replicated with any consistency in other communities. And, finally, novel legal remedies, such as the civil protection order, may suffer because of "widespread lack of enforcement." [69]

Progress has also created a whole host of new problems. For example, increased authority to arrest and prosecute spouse abusers now strains already overextended police, prosecutors, and courts. In 1987, New York State police dealt with 73,000 family offenses, almost double the number only 3 years before.[70] Arrests tripled in Connecticut after a mandatory arrest law was passed.[71] Not surprisingly, courts and prosecutors are overwhelmed. In Baltimore, two prosecutors and two paralegals provided services to 7,000 victims in 2 years.[72] In Chicago, a doubling of criminal cases swamped the two existing domestic violence courts and required the opening of a third court.[73]

The need for shelter further strains States' already limited resources. For a number of women, their only hope of escape is a shelter. But the need for such shelter is chronic and widespread: in one Philadelphia program, three out of every four women are turned away; in Seattle, there are 500 arrests for battering per month, but only 39 beds for battered women; in New York, one program turns away approximately 100 battered women per week. It is shameful, but this society has invested more in our pets than our wives: there are three times as many animal shelters as shelters harboring battered women.[74]

B. TAKING DOMESTIC VIOLENCE SERIOUSLY: SAFE HOMES FOR WOMEN

National leadership on domestic violence is sorely needed, and title II of the Violence Against Women Act was created to provide that leadership. It is built on the philosophy that spouse abuse must be treated just as seriously as any other violent crime. Existing federal statutes skirt the problem, treating domestic violence as a "health" issue, a "shelter" issue, or a "crime victim compensation" issue.[75] These are all important dimensions of the problem, but they do nothing to acknowledge that the Federal Government believes this is a "criminal justice" priority.

First, title II creates a Federal spouse abuse remedy. Unless, and until, the Federal Government recognizes its criminal responsibilities in this area, there can be no national leadership on this issue. As a general rule, States are primarily responsible for criminal laws. But the Federal Government plays an important role by clos-

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[68] D.C. Coalition Against Domestic Violence (release on file with the Judiciary Committee).
[69] National Institute of Justice, "Civil Protection Orders: Legislation, Current Court Practice, and Enforcement," 3 (1990).
[70] 1987 Crime and Justice Report, produced by the New York State Division of Criminal Justice Services.
[71] Connecticut Coalition Against Domestic Violence.
[72] Written testimony of Roni Young, before the Senate Judiciary Committee (June 20, 1990).
[73] Judge Francis Anthony Gembala, Supervising Judge, Domestic Violence section, Circuit Court of Cooke County.
[74] E. Schneider, "Legal Reform Efforts for Battered Women: Past, Present, and Future" 58 (prepared for the Ford Foundation, July 1990); National Woman Abuse Prevention Project; ASPCA.
[75] See the Family Violence Prevention and Services Act, 42 U.S.C. 10400.

ing loopholes created by the division of criminal law responsibilities among the States. Title II fills an existing gap by creating Federal penalties for abusers who cross state lines to continue abuse and by making protective court orders issued in one State valid in the 49 others.

Second, title II recognizes that the Federal Government needs to provide more resources to fight the domestic violence problem. For fiscal year 1989, appropriations for domestic violence totalled $8.5 million, just over 1 percent of the cost of a single B-2 bomber. Title II authorizes $125 million for domestic violence funding, including $75 million—triple current authorizations—for battered women's shelters. Coupled with law enforcement funds available for domestic violence under title I, this amount should provide much-needed Federal assistance in this area.

Third, title II provides significant incentives to encourage States to treat domestic violence as a serious crime. The act includes two different incentive programs. For States suffering from strain on their systems in responding to increased arrests, the bill provides additional assistance to centralize and systematize the process. For other States seeking a more dramatic solution, this title creates a "model State" program, encouraging comprehensive reform in arrest, prosecution, and judicial policies.

Title III—Civil Rights for Women

Government has a "responsibility to treat each citizen's fate as equally important." [76] This is nowhere more true than when a citizen's physical security is at stake. The Violence Against Women Act treats crimes motivated by gender as important enough to serve federal civil rights protection. This title declares, for the first time, that assaults overwhelmingly motivated by gender are a violation of the victim's civil rights, just as are assaults motivated by a victim's race or religion.

Congress has the power, and obligation, to recognize that violence motivated by gender "is not merely an individual crime or a personal injury, but is a form of discrimination." [77] With the passage of title VII, Congress recognized an important federal interest in battling gender discrimination and acted to bar that discrimination in the workplace. The Violence Against Women Act recognizes that gender discrimination may not only take the form of a lost pay raise or promotion, but also a violent attack.

A. CONGRESS' OBLIGATION TO REMEDY VIOLENT DISCRIMINATION

The American legal system has always treated an assault committed on the street by a stranger as a serious criminal offense that should yield a serious jail term. But when the assault is gender-motivated, and it takes place in the home or is sexual in nature, the criminal justice system, in many instances, has not recognized the crime or has refused to believe its victims. Up until the end of the last century, assaults in the home were not only ignored,

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[76] R. Dworkin, "Law's Empire" at 296 (1986).

[77] Written testimony of Helen Neuborne, submitted to the Senate Judiciary Committee (June 20, 1990).

they were effectively condoned by many courts.[78] And sexual assault complaints were long viewed with skepticism: victims were required to produce corroborating witnesses or demonstrate "utmost resistance" to justify a criminal sanction.[79]

Despite much reform, witnesses explained to the committee that vestiges of this legal discrimination remain.[80] Well-intentioned law reforms have failed, in many cases, to stop jurors from applying the same requirements that the legislature has just pronounced irrelevant.[81] And recent studies indicate that gender bias affects judges, prosecutors and court employees.[82]

The Violence Against Women Act cannot rectify all of these problems, but it can take a very important step in taking seriously crimes motivated by gender. As one witnesses testified: "Perhaps the most constructive role that the Federal Government can play in the effort to combat crimes against women is to enact legislation recognizing that violence motivated by gender is a violation of civil rights." [83]

Title III makes a national commitment to condemn crimes motivated by gender in just the same way that we have made a national commitment to condemn crimes motivated by race or religion. It provides a civil rights remedy in the tradition of sections 1981, 1983, and 1985(3). It permits a victim of a crime motivated by gender to sue in Federal court for compensatory and punitive damages. Not every injury motivated by gender is covered: the incident must amount to a "crime of violence" as defined in title 18, including but not limited to, any felony sexual assault, rape, or other attack, and must be overwhelmingly motivated by gender.

B. THE NEED FOR A CIVIL RIGHTS REMEDY

Hearings on this legislation sparked some debate about the need for, and the wisdom of, a civil rights remedy. Doubts were voiced about whether the remedy would serve any real deterrent purpose—that it would "do nothing" to solve the problem. And questions were raised about whether the remedy was needed when state law already provides criminal and civil penalties for assault and rape.

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[78] See *State* v. *Rhodes*, 61 N.C. 445 (1868) (upholding, on other grounds, decision of lower court that "His Honor was of opinion that the defendant had a right to whip his wife with a switch no larger than his thumb, and that upon the facts, found in the special verdict he was not quilty in law"); see *Thompson* v. *Thompson*, 218 U.S. 611 (1910) (denying right of wife to maintain action against her husband for assault and battery based on common law theory of the unity of husband and wife).

[79] On the corroboration and utmost resistance requirements in rape cases, see S. Estrich, "Real Rape" ch.3 (1987); Note, "The Rape Corroboration Requirement: Repeal Not Reform," 81 *Yale L.J.* 1365–1391 (1972); see *Perez* v. *State*, 94 S.W. 1036, 1038 (Tex. Crim. App. 1906) ("although some force be used, yet if she does not put forth all the power of resistance which she was capable of exerting under the circumstances it will not be rape") (quoted in S. Estrich, at 31).

[80] See testimony of Helen Neuborne, before the Senate Judiciary Committee (June 20, 1990).

[81] H. Feild & L. Bienen, "Jurors and Rape: A Study in Psychology and Law" 56 (1980); see also L. Bourque, "Defining Rape" (1989).

[82] Written testimony of Helen Neuborne, before the Senate Judiciary Committee (June 20, 1990); Report of the Federal Courts Study Committee; see, e.g., New York State Supreme Court Study on Gender Bias in the Courts; Florida Supreme Court Study on Gender Bias in the Courts.

[83] Written testimony of Helen Neuborne, submitted to the Senate Judiciary Committee (June 20, 1990).

This remedy will accomplish much for the victims of gender-based attack. First, it puts another legal tool in victim's hands to call their attacker to account. Testimony before the committee shows that such remedies are important because they allow survivors an opportunity for legal vindication that the survivor, not the State, controls.[84] Second, a civil remedy offers decided advantages over criminal sanctions: the plaintiff may call the attacker to the witness stand to account for his behavior and need only prove the offense by a preponderance of the evidence; in a criminal case the defendant may remain silent and is proven guilty only "beyond a reasonable doubt." Third, a Federal remedy offers victims the best court system in the world with judges insulated from local political pressures and the power to screen out jurors who harbor irrational prejudices against, for example, rape victims.

The civil rights remedy included in this bill does not duplicate State law. Criminal laws are intended to vindicate the State's interest in the protection of its citizens, not the victim's interest in equal treatment. Moreover, there is strong reason to doubt the efficacy, for many victims, of criminal remedies for crimes most likely to be gender-motivated, such as rape. Many of those crimes are never reported, fewer are prosecuted, and even fewer result in a conviction.[85]

Similarly, State civil laws are not focused on the discriminatory aspect of gender-motivated crime. Civil assault and battery laws are not intended to remedy discrimination and fitting gender-motivated crimes into common-law categories may prove difficult because tort remedies typically focus on physical injuries, not the deprivation of an individual's civil rights. For example, although there are over 100,000 rapes a year in this country, there were only 255 civil jury trials arising from sexual assaults over a ten year period.[86] This statistic is not intended to suggest intentional failures by states to enforce or pass civil laws to protect victims, but simply reflects the fact that state tort law was never intended to protect individuals' civil rights.

The civil rights remedy included in this bill does provide victims of gender-motivated crimes with a meaningful new remedy. Moreover, it says that we as a nation will not tolerate this kind of discrimination—that no member of society should be subject to a crime just because of their gender.

C. CONGRESS' POWER TO REMEDY VIOLENT DISCRIMINATION

The Supreme Court has held that violent gender-based assaults may constitute gender discrimination within the scope of title VII, 42 U.S.C. 200e et seq. *Meritor Savings Bank, FSB* v. *Vinson*, 477 U.S. 57 (1986). Title III's civil rights provision makes explicit what the Court has already held: that an assault against a woman simply because she is a woman is no different than an assault

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[84] Testimony of Linda Fairstein, Helen Neuborne, Marla Hanson, before the Senate Judiciary Committee (June 20, 1990).

[85] See Testimony of Dr. Mary Koss, Helen Neuborne, Linda Fairstein, before the Senate Judiciary Committee (June 20 and Aug. 29, 1990).

[86] Information supplied by Jury Verdict Research Inc. (This figure, of course, only identifies cases in which there was a jury trial and does not include cases that (1) were tried before a judge; (2) were settled before trial; or (3) were filed, but were dropped or dismissed.)

against a black person because that person is black. It is a "form of discrimination—an assault on a publicly shared ideal of equality." [87]

Congress' power to remedy this kind of discrimination stems from the same constitutional sources that underpin other antidiscrimination legislation: the commerce clause, the fourteenth admendment, the right to travel, and other rights protected by the privileges and immunities clause. Gender-based crimes and the fear of gender-based crimes restricts movement, reduces employment opportunities, increases health expenditures, and reduces consumer spending, all of which affect interstate commerce and the national economy. Gender-based crimes and women's fears of those crimes also restrict the enjoyment of federally protected rights like the right to employment, the right to public accommodations, and the right to travel. Finally, gender-based crimes violate our most fundamental notions of equality—that no person's physical security should be at risk because of an immutable trait, because of race, religion, or gender.

In closing, the committee emphasizes that the civil rights remedy provided in the bill is not intended to cover any and all gender-based discrimination. It is limited to gender-based discrimination that results in a crime of violence, and it is limited to crimes of violence proven to be overwhelmingly motivated by gender.

Title IV—Safe Campuses for Women

A. THE SPECIAL PROBLEM OF CAMPUS VIOLENCE

Hearings on S. 2754 revealed a special problem of violence, a problem that affects young women on campus. Those women are at the greatest risk for the most violent of crimes—rape. More college women will be raped this school year than will be struck by any other major crime. Unfortunately, little attention has been paid to this problem. Universities have strong incentives to minimize the campus crime problem, and college victims' youth and inexperience often lead them to hide their encounter with violence.

Recent studies show a startlingly high number of women students victimized by rapists. One witness testified that in a study of 32 colleges across the country, she found that a woman in college has a 1-in-13 chance of being raped in a given year. Applying that figure nationally, one finds that 125,000 college women can expect to be raped during this—or any—year.[88]

Few students will ever report those crimes. For example, while campus studies suggest that 1,275 women were raped at America's three largest universities in 1989, only three of those rapes were reported to police.[89] In light of such statistics, it is not surprising to learn that less than 5 percent of college women report their rapes to the police. In fact, according to one report, nearly half of

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[87] Written testimony of Helen Neuborne, before the Senate Judiciary Committee (June 20, 1990).

[88] Testimony of Dr. Mary Koss, before the Senate Judiciary Committee (Aug. 29, 1990).

[89] Dr. Mary Koss, testimony before the Senate Judiciary Committee (Aug. 29, 1990); FBI, Uniform Crime Reports, "Crime in the United States" 118–25 (1989).

the women who are raped in college tell no one of their victimization.[90]

Rape is truly a horrible crime for any woman, but its devastation is often magnified for young women attending college. College women are not only at risk demographically (acquaintance rape happens most frequently among those between the ages of 15 and 24), but they are at risk psychologically and educationally. Rape may not only cost a young woman "her confidence and trust, but it may also cost her her very education." [91] Freshman women are the easiest targets, and have the most to lose: it is not unusual for these women to drop out of school altogether.[92] And, even if a woman does not drop out, she may feel it necessary to interrupt her college career simply to avoid her attacker. Indeed, one witness testified before the committee that her college counselor's only advice to her, after a rape, was to "keep your grades up" so she could transfer to a different school.[93]

B. THE LEGISLATIVE RESPONSE: SAFE CAMPUSES FOR WOMEN

Title IV of the Violence Against Women Act responds by calling for the first federal program for college rape education and prevention. Qualifying programs would include educational seminars, peer-to-peer counseling, self-defense courses, the installation and operation of hotlines, the preparation of information materials, and any other effort that would increase campus awareness of the facts about, or that would help prevent, sexual assault. To alleviate the financial burden, the bill provides $10 million in grant monies to the neediest institutions.

This title also protects college rape victims' right to know the fate of their attackers. Higher Education Act privacy restrictions now inhibit universities from disclosing the outcome of campus disciplinary proceedings brought against alleged rapists. This title permits colleges to inform victims of the disciplinary fate of their attackers. Only if the victim learns of the outcome of these proceedings will she know whether her attacker will be in class the next day; only if she knows will she be able to pursue other civil or criminal remedies.

Title V—Equal Justice for Women in the Courts Act

The final title of the Violence Against Women Act—the Equal Justice in Courts Act—was sponsored by Senator Simon and included as an amendment to the original bill. This title focuses on training for judges about violent crimes against women. It provides training to both State and local judges on a number of issues, including sexual assault and domestic violence. Training covers the nature and incidence of rape; the application of rape shield laws; the reasons victims do not report crimes of domestic violence and sexual assault; and the economic and psychological effects of these

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[90] R. Warshaw & M. Koss, "I Never Called it Rape" 50 (1988).

[91] Senator Joseph R. Biden, Jr., Opening Statement before the Senate Judiciary Committee, Aug. 29, 1990.

[92] J. Ehrhart & B. Sandler, "Campus Gang Rape," paper prepared for the Association of American Colleges (1985).

[93] Testimony of Christine Shunk, before the Senate Judiciary Committee (Aug. 29, 1990).

crimes. Training curricula must be developed in conjunction with a broad array of experts, including law enforcement officials, volunteer victim advocates, prosecutors, defense attorneys, and other legal experts.

IV. Vote of the Committee

On October 4, 1990, the Committee on the Judiciary by voice vote approved an amendment in the nature of a substitute by Senator Biden, along with amendments by Senators Hatch and Simon. The committee ordered the bill, the Violence Against Women Act of 1990, as amended, favorably reported.

V. Section-by-Section Analysis

TITLE I—SAFE STREETS FOR WOMEN ACT

Subtitle A—Federal penalties for sex crimes

This subtitle increases Federal penalties for rape, aggravated rape, and repeated sex offenses.

Section 101. Short title: This section provides the short title of Title I, the "Safe Streets for Women Act of 1990."

Section 111. Repeat offenders: This section doubles penalties for repeat sex offenders. A person who has already been convicted of a crime under chapter 109A of title 18, United States Code, is subject to a penalty of up to twice the existing penalty, based on new guidelines to be promulgated by the Sentencing Commission.

Section 112. Federal penalties: This section doubles existing penalties for rape and aggravated rape. Under current law, the Sentencing Commission has set the base level rape sentence at 6 years and the base level aggravated rape sentence at 9 years. This section directs that the Sentencing Commission establish guidelines or revise existing guidelines to double existing rape penalties.

Section 113. Mandatory restitution for sex crimes: This section requires sex offenders to pay costs incurred by victims as a proximate result of a sex crime. Under current law, a court may, but is not required to, order "restitution" or the payment of costs incurred. Often, it is simply assumed that the defendant does not, and will never have, the resources to pay the victims' costs. This section reverses those assumptions, requiring the court to order the defendant to pay the victims' expenses. The defendant's resources are not relevant to the plaintiff's entitlement to a restitution award or the amount of the award, but only the method of payment. The restitution order is not intended to become a separate civil proceeding; streamlined procedures are provided that insure fairness both to the victim and the defendant.

Subtitle B—Law enforcement and prosecution grants to reduce violent crimes against women

This subtitle creates two grant programs attacking violent crimes against women. Part A targets $200 million in funds to the 40 most dangerous areas in the country for women. Part B provides $100 million for each of the 50 States, with each State receiving at least $500,000.

Section 121. Grants to combat violent crimes against women: This section amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) to provide grants to combat violent crimes against women. The purpose of the new grants is to assist States, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

Subpart 1 grants target the 40 most dangerous areas in the country for women. The Justice Department is directed to create a list of those areas and publish the list in the Federal Register not less than 45 days after the bill's enactment. To collect this data, the Bureau of Justice Statistics need not conduct a new victimization survey, but may rely upon existing data for reported crimes gathered by cities, States, or the FBI.

Subpart 2 grants are general monies available to any State. Each State is entitled to a minimum $500,000, with the remaining $75 million divided among the States based on the State's population.

Under either subpart, grants must be used for specified purposes, including training for police and prosecutors; expanding or creating units of police or prosecutors focusing on crimes against women; developing protocols for police and prosecutors on the handling of domestic violence and sexual assault cases; developing or expanding computer systems to track complaints; and boosting resources for victim services programs. Any qualifying fund recipient must certify that grant monies will be used for three of the five purposes outlined in this section.

To qualify for funds under this section, grantees must comply with certain statutory conditions. First, grantees must certify that programs will be coordinated with local volunteer service agencies, such as rape crisis centers and battered women's shelters. Second, States seeking general grants must have in place laws that provide for AIDs testing of convicted rapists at the request of the victim, or lose 10 percent of the State's general grant. Third, any grantee seeking funds under this section or any other title I program must have in place laws or policies that require the State, not the victim, to pay for forensic rape exams. (See section 162 below).

Subtitle C—Safety for women in public transit and public parks

This subtitle targets existing funds to add lighting, camera surveillance, and security phones in national and state parks.

Section 131. Grants for capital improvements to prevent crime in public transportation: This section authorizes the use of existing public transit funds to target crime, including crimes against women. It amends the Urban Mass Transportation Act to authorize the Secretary of Transportation to use $10 million in mass transit funds to increase lighting, camera surveillance and emergency telephones in bus stops, subway stations, or adjacent parking lots. The Federal share for these capital improvement projects shall be 90 percent.

Section 132. Grants for capital improvements to prevent crime in national parks: This section authorizes the use of existing national park funds to target crime, including crimes against women. It amends the National Park System Improvements in Administra-

tion Act (16 U.S.C. 1a et seq.) to authorize the Secretary of the Interior to allocate $10 million for Federal assistance to reduce violent crime in the National Park system. Funds are to be allocated to the areas most in need of assistance, with priority granted to those areas with high rates of sexual assault, as determined by the chief official responsible for law enforcement within the National Park Service.

Section 133. Grants for capital improvements to prevent crime in public parks. This section authorizes the use of existing state park funds to target crime, including crimes against women. It amends the Land and Water Conservation Fund Act of 1965 to authorize the Secretary of the Interior to allocate $15 million from the Land and Water Conservation Fund for Federal assistance to reduce violent crime in State parks. Funds are to be allocated to the neediest areas, with a priority given to urban parks and recreation areas with the highest rates of crime.

Subtitle D—National commission on violent crime against women

Section 141. Establishment: This section creates a national commission to study the Nation's response to violent crimes against women and for making recommendations on how to reduce crimes against women.

Section 142. Duties of commission: This section specifies the duties of the commission. Among the topics to be studied by the commission are: the need for more uniform State laws on domestic violence and sexual assault, the adequacy of current data on violent crimes against women, and the need for national educational and awareness efforts.

Section 143. Membership: Five members are to be chosen by the President, three of whom shall be the Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Bureau of Investigation. The remaining ten members are to be chosen by the Majority and Minority Leaders of the Senate and the House of Representatives and should include representatives from a broad cross-section of interested parties, including persons with expertise in law enforcement, prosecution, victim advocacy, judicial administration, and other legal and constitutional issues.

Sections 144–48. These sections require a commisison report, provide for an executive director and staff, authorize appropriations, and terminate the commission after 1 year.

Subtitle E—New evidentiary rules

This subtitle creates 3 new Federal Rules of Evidence. Congress has plenary power to make such changes and has exercised that power in the past by enacting rule 12, the Federal rape shield law, on which the new rules in this section are based.

Section 151. Sexual history in criminal cases: This section applies the principles of the rape shield law to all criminal cases, not just the sex assault cases where current rule 412 applies. It creates a new evidentiary rule, rule 412A, governing all criminal cases brought under title 18, United States Code. Subsection (a) of new rule 412A, bars reputation and opinion evidence of past sexual behavior in all criminal cases, tracking the same language that now governs reputation and opinion evidence in rule 412. The only dif-

ference is that rule 412A applies to all criminal cases, not just the sex assault cases currently covered by rule 412.

Subsection (b) provides that evidence of specific instances of a victim's past sexual behavior is admissible if the evidence is relevant and its probative value outweighs its prejudicial effect. However, such evidence is only admissible if it is offered in accordance with the procedures outlined in subsection (c), procedures that are similar to those governing the admissibility of evidence under the current rape shield rule, rule 412.

Subsection (c) provides that, in ruling on an offer of proof, the court should articulate the reasoning processes that led it to conclude that the evidence was relevant and probative given the potential for the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

Section 152. Sexual history in civil cases: This section extends the principles of Rule 412A to civil claims of actionable sexual misconduct. It creates a new evidentiary rule, rule 412B, that governs the use of prior sexual history in cases involving claims of sex harassment and discrimination brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) and gender bias claims brought pursuant to title III of this act. Like rule 412A, this rule bars the use of reputation or opinion evidence of prior sexual history. Also like rule 412A, this rule provides that prior sexual history shall be admitted only if relevant and only if its probative value outweighs its prejudicial effect. The procedures for offering potentially admissible evidence in this rule are identical to those in rule 412A.

Section 153. Amendments to the rape shield law: This section makes three amendments to the existing rape shield law, rule 412. First, it codifies existing law permitting a victim to take an interlocutory appeal of an adverse ruling under the rape shield law. Second, it provides for the rare case in which a victim may want to introduce evidence of prior sexual history (or a lack thereof), clarifying that a victim may waive the rule's protections. Third, rule 412's procedures are conformed to those included in new rules 412A and 412B.

Section 154. Evidence of clothing: This section provides that evidence of clothing may not be admitted to show that a victim incited or invited a rape. Nothing in this section is intended to bar the use of clothing when it is relevant to an issue in the case such as injury or identity.

Subtitle F—Assistance to victims of sexual assault

Section 161. Education and prevention grants to reduce sexual assaults against women: This subtitle authorizes a twenty-fold increase in rape prevention and education funding, from $3.5 million to $65 million. Funds are to be provided to volunteer nonprofit service providers, such as rape crisis centers. At least 15 percent of funds must be allocated for education of junior high school and high school students on rape prevention.

Section 162. Rape exam payments: Grantees seeking any title I funds must provide payment for forensic rape exams. To meet this requirement, it is preferable that States or localities reimburse hospitals, not victims, for the expense of the exam. However, it is suffi-

cient that a State or locality reimburse the victim after the fact if the reimbursement scheme requires prompt payment (within 90 days), provides information about reimbursement to the victim at the time of the exam, permits applications for reimbursement for up to 1 year after the date of the exam, and includes no minimum loss or deductible.

TITLE II—SAFE HOMES FOR WOMEN ACT

Subtitle A—Interstate enforcement

Section 201. Short title: This section provides the short title of Title II, the "Safe Homes for Women Act of 1990."

Section 211. Interstate enforcement: This section creates a new chapter in the Criminal Code to punish spouse abusers who cross State lines to continue abuse. To fill existing gaps in State law, two substantive criminal offenses are created. First, any person who travels across State lines and who injures his or her spouse in violation of a criminal law of a State is subject to new Federal penalties in addition to any penalty that may be provided by the State in which the injury occurs. Second, any person who crosses State lines and violates a valid protective order commits a Federal offense subject to Federal penalties similar to existing penalties of assault on Federal territory.

Section 211 also provides enhanced protection for victims of the new domestic violence crimes created under this chapter. First, it specifically authorizes courts to enter orders of protection pending final adjudication of a case, upon a showing that the victim is in danger of further injury by the alleged abuser. Second, it provides for victim restitution on the same terms and conditions as provided in section 113.

Finally, section 211 makes protective orders issued by one State good in the other 49 States. Under current law, a spouse who obtains a "stay away" order in one State may lose the protection of that order if she crosses State lines. Modelled on existing law addressing child custody in parental kidnapping cases, this section provides that any valid protective order issued by a State should be given "full faith and credit" by a sister State.

Subtitle B—Arrest in spousal abuse cases

This subtitle encourages States to treat domestic violence as a serious crime. It creates a new $25 million grant program for those States with policies encouraging or requiring arrest of spouse abusers. Eligible grantees are those States, municipalities, or local government entities demonstrating that their laws have significantly increased the number of arrests of spouse abusers and certifying that their laws or policies either encourage or mandate arrest of spouse abusers. Grants are targeted for increased centralization, training and education, and implementation of pro-arrest policies.

Subtitle C—Funding for shelters

This subtitle triples the funding authorization for battered women's shelters to $75 million for fiscal years 1991, 1992, and 1993.

Subtitle D—Family Violence Prevention and Services Act amendments

This subtitle makes a number of improvements in existing legislation on family violence, the Family Violence Prevention and Services Act.

Section 251. Expansion of purpose: This section makes clear that federal programs on domestic violence should help to increase public awareness about domestic violence.

Section 252. Expansion of State demonstration grant program: This section makes clear that grants may be made for the purpose of increasing awareness about domestic violence.

Section 253. Grants for public information campaigns: This section provides grants for public information campaigns, including public service announcements, print media, billboards, and public transit advertising. As provided in subtitle C, no more than 5 percent of funds authorized under the Act may be used for public information campaigns. Groups qualifying for such grants must have experience in conducting such campaigns, provide assurances that education will be targeted to groups at the greatest risk, and provide any other information that the Secretary of Health and Human Services may require.

Section 254. Commissions on domestic violence: This section provides that States receiving funds under title II must provide assurances that, no later than 1 year after the receipt of funds, the State shall have established a commission on domestic violence to examine issues on mandatory arrest, no-drop prosecution policies, prosecution delays, the use of plea agreements, reporting practices and other issues concerning domestic violence. No more than 2 percent of any grant issued under the Act may be used to support such a commission.

Section 255. Indian tribes: This section provides that no less than $1 million of funds authorized shall be made available to Indian tribes.

Section 256. Funding limitations: This section eliminates statutory language that limits funding to any one entity to $150,000.

Section 257. Grants to entities other than States; local share: This section provides that demonstration grants may be made only to those entities providing 50 percent of the project funding.

Section 258. Shelter and related assistance: This section clarifies that at least 75 percent of authorized and appropriated monies must be spent on shelter assistance, with the remaining 25 percent devoted to special demonstration grants. It also broadens the scope of services that may be entitled to grant monies. Rather than simply providing shelter, monies may be used for day care services, educational services, and other specified purposes.

Section 259. Law enforcement training and technical assistance grants: This section clarifies, contrary to existing practice, that grants for training of law enforcement officers must be granted to nonprofit organizations with demonstrated experience in providing training and technical assistance. This overrules existing practices whereby technical grants are awarded to for-profit entities. These grants should be awarded to volunteer organizations expert in providing services to battered women; grants to law enforcement offi-

cers to train law enforcement officers are insufficient without the input of volunteer groups that deal with the victims of spouse abuse.

Section 260. Report on recordkeeping: This section requires the Attorney General to submit to Congress a report and recommendation on the problems of recording domestic violence complaints, arrests, and convictions. The report must also address the feasibility of, and provide a timetable for, requiring national statistics that reflect the relationship of the offender and the victim for aggravated assault, rape, and other violent crimes.

Section 261. Model State leadership incentive grants for domestic violence intervention: This section authorizes a new $25 million grant program to encourage national leadership in the states on domestic violence. Sums will be awarded to 10 States. To qualify, a State must have a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order. In addition, a "model State" must develop statewide policies that encourage no-drop prosecution, special units devoted to domestic violence, pursuit of cases even where the victim refuses to cooperate, and limits diversion to extraordinary cases. Finally a "model State" must develop statewide policies for judicial handling of cases to reduce the automatic issuance of mutual restraining orders and discourage custody by abusing spouses.

Section 262. Funding for technical assistance centers: This section provides for five regional technical assistance centers for domestic violence shelters.

TITLE III—CIVIL RIGHTS

Section 301. Civil rights: This section provides a civil rights remedy for gender-motivated crimes. Modeled on sections 1981, 1983 and 1985(3), this section provides a Federal court remedy to victims of gender-based violence. The conduct covered under this section includes crimes of violence, including felony rape, sexual assault, kidnapping, and any other crime overwhelmingly motivated by gender. Compensatory and punitive damages, where appropriate, may be recovered.

Like the statutes on which it is modelled—42 U.S.C. 1981, 1983, and 1985(3)—this section reaches gender-based discrimination by private persons and by persons acting under color of State law. Nothing in this section should be interpreted as extending or revising existing law on States' failure to protect citizens as that law has developed under sections 1981, 1983, or 1985(3). All procedural issues should be resolved in accord with current law governing sections 1981, 1983, and 1985(3).

TITLE IV—SAFE CAMPUSES FOR WOMEN ACT

Section 401. Short title: This section provides the short title to this Title, the "Safe Campuses of Women Act of 1990."

Section 403. Findings: This section finds that rape prevention and education is essential to an educational environment free of fear; that rape on campus is widespread and poses a grave threat

not only to students' physical well-being but also to their educational opportunities; and that action by colleges and universities may make significant progress in helping to prevent rape, including acquaintance rape.

Section 404. Grants for campus rape education: This section authorizes the first Federal program for college rape education. The Secretary of Education is authorized to provide $10 million in grants, on a competitive basis, to institutions for the purpose of providing rape education. Two types of grants are available—grants for model demonstration programs developed in coordination with existing rape crisis centers and grants for the implementation and operation of existing programs. Applications must assure the Secretary that Federal funds shall be used to supplement, not to replace, funds already allocated for campus rape prevention activities. Priority for all grants is given to the neediest institutions.

Section 405. Disclosure of disciplinary proceedings in sex assault cases on campus: This section provides campus rape victims with the "right to know" the fate of disciplinary proceedings against their attackers. Under current law, universities often refuse to disclose the outcome of disciplinary proceedings to any person, including the victim of a rape or other violent crime. This section changes current law to allow disclosure to crime victims of disciplinary proceedings.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Section 501. Short title: This section provides the short title of this title, the "Equal Justice for Women in the Courts Act of 1990."

Subtitle A—Education and training for judges and court personnel in State courts

This subtitle provides training for State court judges on a number of subjects related to crimes against women.

Section 511. Grants authorized: This section authorizes the Attorney General to provide grants through the State Justice Institute for the purpose of developing, testing, and presenting model programs to be used in the States.

Section 512. Training provided by grants: This section outlines training subjects such as the nature and incidence of rape; the physical, psychological and economic impact of rape and domestic violence; the application of rape shield laws; the use of testimony on rape trauma syndrome, and the legitimate reasons why women victims of crimes do not report those crimes.

Section 513. Cooperation in developing programs in making grants under this title: This section provides that the Attorney General shall insure that model programs are carried out in conjunction with a variety of persons with knowledge and expertise in the criminal justice process, including law enforcement personnel, victim advocates, prosecutors, defense attorneys, and recognized legal experts.

Section 514. Authorization of appropriations: This section authorizes $600,000 to carry out the purposes of subtitle A, the training of State court judges.

Subtitle B—Education and training for judges and court personnel in Federal courts

While subtitle A addresses the problems faced by State court judges, this subtitle focuses on Federal court judges.

Section 521. Education and training grants: This section provides that the Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, with the issuance of a final report including their empirical findings and recommendations for legislative, administrative, and judicial action.

This section also directs the Federal Judicial Center to develop, test, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence and other crimes of violence motivated by gender. Topics to be covered include those outlined in subtitle A as well as the new remedies provided in title III of this act.

Section 522. Cooperation in developing programs: This section is identical to section 513, but applies to Federal judges.

Section 523. Authorization of appropriations: This section authorizes $400,000 to carry out the purposes of subtitle B.

VI. Estimated Cost of Legislation

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 404 of the Congressional Budget Act of 1974, the committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S Congress,
Congressional Budget Office,
Washington, DC, October 18, 1990.

Hon. Joseph R. Biden, Jr.,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 2754, the Violence Against Women Act of 1990.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2754.
2. Bill title: Violence Against Women Act of 1990.
3. Bill status: As ordered reported by the Senate Committee on the Judiciary, October 4, 1990.
4. Bill purpose: S. 2754 would make a number of changes and additions to Federal laws related to violence and crime against women. Title I of the bill would:

Increase Federal penalties and require restitution for certain sex crimes;

Authorize $300 million for each of fiscal years 1991, 1992, and 1993 for grants to State and local governments to combat violent crimes against women;

Earmark up to $10 million in Urban Mass Transportation discretionary capital grants to increase the safety and security of public transportation systems;

Authorize up to $10 million to reduce the incidence of violent crime in the National Park System and up to $15 million for State grants to make capital improvements to increase safety in public parks and recreation areas;

Establish a National Commission on Violent Crime Against Women;

Amend the Federal Rules of Evidence with respect to past sexual behavior of alleged victims; and

Authorize $65 million for each of fiscal years 1991, 1992, and 1993 for State grants to provide rape prevention and education programs.

Title II of the bill would:

Establish Federal penalties and require restitution for violence against spouses;

Authorize up to $25 million annually for grants to State and local governments to encourage States and localities to treat spousal violence as a serious violation of criminal law;

Authorize $75 million for each of fiscal years 1991, 1992, and 1993 to carry out the provisions of the Family Violence Prevention and Services Act;

Authorize $25 million for fiscal year 1991 and such sums as may be necessary for each of fiscal years 1992 and 1993 for model State leadership incentive grants for domestic violence intervention; and

Make a number of other changes to the Family Violence Prevention and Services Act.

Title III of the bill would create a cause of action for the recovery of compensatory and punitive damages for crimes of violence overwhelmingly motivated by the victim's gender.

Title IV of the bill would authorize $10 million for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994 for grants to or contracts with institutions of higher education for rape edcuation and prevention programs.

Title V of the bill would:

Authorize $600,000 for fiscal year 1991 for grants to develop, test, present, and disseminate model programs to be used by states in training judges and court personnel in the laws of the states on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender; and

Authorize $400,000 for fiscal year 1991 for the Federal Judicial Center to study the nature and extent of gender bias in the federal courts and to develop, test, present, and disseminate model programs to be used in training federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Estimated authorization level	518	501	503	36	25
Estimated outlays	160	380	484	369	151

The costs of this bill would fall within budget functions 300, 500, 550 and 750.

Basis of estimate: The estimate assumes that the Congress will appropriate the full amounts authorized for each fiscal year. For programs with specific amounts authorized for 1991 and such sums authorizations for subsequent years, we have projected the indefinite authorizations by adjusting the 1991 level for inflation. (These include the model state leadership incentive grants and grants for campus rape education.) The outlay estimates are based on the historical spending rates for these or similar activities.

There is no budget authority or spending associated with the earmarking of up to $10 million in Urban Mass Transportation discretionary capital grants to increase the safety and security of public transportation systems. S. 2754 would earmark existing contract authority, but would not increase the amounts available.

Under current law such sums as may be necessary are authorized for fiscal year 1991 for the Family Violence Prevention and Services Act. S. 2754 would authorize $75 million for fiscal year 1991 to carry out the provisions of the Act. CBO estimates that the 1991 authorization contained in S. 2754 would be $66 million higher than the 1990 appropriation adjusted for inflation.

6. Estimated cost to State and local governments: Most of the funding authorized by S. 2754 is in the form of grants to state and local governments. Several provisions of the bill would affect the allowed uses of funds by grant recipients.

Two provisions of S. 2754 could affect state eligibility for certain grants authorized by the bill and could result in increased costs to the states. One provision would require states, at the request of a victim of a sexual act, to administer an AIDS test to the defendant convicted under state law of such sexual act, and to disclose the results of such test to the victim. The other provision would require that states incur the full cost of forensic medical exams for victims of sexual assault. States would need to meet the requirements only in order to be eligible for certain grant funds; such requirements would not otherwise need to be met.

To the extent that states administer AIDS tests at the request of a victim of a sexual act, and to the extent that victims make such requests, there could be additional costs to the states. There also could be increased costs to the states to the extent that states incur the full costs of forensic medical exams for victims of sexual assault. We do not expect the increased costs to be significant.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Mitchell Rosenfeld.

10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

VII. Regulatory Impact Statement

Pursuant to paragraph 11(B), rule XXVI of the Standing Rules of the Senate, the committee, after due consideration, concludes that the act will not have any direct regulatory impact.

VIII. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2754, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE—TITLE 16

CONSERVATION

* * * * * * *

§ 1a–1. National Park System: administration; declaration of findings and purpose

* * * * * * *

SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

(1) compile a list of areas within the National Park System with the highest rates of violent crime;

(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

(d) Funds provided under this section may be used for the following purposes—

(1) to increase lighting within or adjacent to public parks and recreation areas;

(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

(4) any other project intended to increase the security and safety of public parks and recreation areas.

* * * * * * *

§ 460*l*–8. Financial assistance to States

(a) AUTHORITY OF SECRETARY OF THE INTERIOR; PAYMENTS TO CARRY OUT PURPOSES OF LAND AND WATER CONSERVATION PROVISIONS.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to provide financial assistance to the States from moneys available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this part, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interests in land or waters, or (3) development.

* * * * * * *

(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

(A) increase lighting within or adjacent to public parks and recreation areas;

(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

(C) increase security personnel within or adjacent to public parks and recreation areas; and

(D) any other project intended to increase the security and safety of public parks and recreation areas.

(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.

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UNITED STATES CODE—TITLE 18

CRIMES AND CRIMINAL PROCEDURE

TABLE OF TITLES AND CHAPTERS

PART I—CRIMES

1. General Provisions.

* * * * * * *

110A. Violence against spouses ..... 2261.

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CHAPTER 109A—SEXUAL ABUSE

Sec.
2241. Aggravated sexual abuse.
2242. Sexual abuse.
2243. Sexual abuse of a minor or ward.
2244. Abusive sexual contact.
2245. Definitions for chapter.
2247. Repeat offenders
2248. Mandatory restitution.

* * * * * * *

§ 2243. Sexual abuse of a minor or ward

(a) OF A MINOR.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

(1) has attained the age of 12 years but has not attained the age of 16 years; and

(2) is at least four years younger than the person so engaging; or attempts to do so, shall be fined under this title, imprisoned not more than [five years] *ten years*, or both.

(b) OF A WARD.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who is—

(1) in official detention; and

(2) under the custodial, supervisory, or disciplinary authority of the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned not more than [one year] *two years,* or both.

* * * * * * *

§ 2244. Abusive sexual contact

(a) SEXUAL CONDUCT IN CIRCUMSTANCES WHERE SEXUAL ACTS ARE PUNISHED BY THIS CHAPTER.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in or causes sexual contact with or by another person, if so to do would violate—

(1) section 2241 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than ten years, or both;

(2) section 2242 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than three years, or both;

(3) subsection (a) of section 2243 of this title had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than [two years] *four years,* or both; or

(4) subsection (b) of section 2243 of this title had the sexual contact been a Sexual act, shall be fined not more than $5,000, imprisoned not more than [six months] *one year,* or both.

(b) IN OTHER CIRCUMSTANCES.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in sexual contact with another person without that other person's permission shall be fined not more than $5,000, imprisoned not more than six months, or both.

* * * * * * *

§ 2247. Repeat offenders

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that any person who commits a violation of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise provided in the guidelines, or up to twice the fine authorized in the guidelines, or both.

§ 2248. Mandatory restitution

(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

(B) the United States Attorney enforce the restitution order by all available and reasonable means.

(2) For purposes of this subsection, the term "full amount of the victim's losses" includes any costs incurred by the victim for—

(A) medical services relating to physical, psychiatric, or psychological care;

(B) physical and occupational therapy or rehabilitation;

(C) any income lost by the victim as a proximate result of the offense;

(D) attorneys' fees; and

(E) any other losses suffered by the victim as a proximate result of the offense.

(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

(A) the economic circumstances of the defendant; or

(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

(B) For purposes of this paragraph, the term "economic circumstances" includes—

(i) the financial resources and other assets of the defendant;

(ii) projected earnings, earning capacity, and other income of the defendant; and

(iii) any financial obligations of the defendant, including obligations to dependents.

(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

(A) any Federal civil proceeding; and

(B) any State civil proceeding, to the extent provided by the law of the State.

(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the

records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

(d) DEFINITIONS.—For purposes of this section, the term "victim" includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including—

(1) in the case of a victim who is under 18 years of age, incompetent or incapacitated, the legal guardian of the victim or the victim's estate, another family member, or any other person designated by the court; and

(2) in the case of a victim who is deceased, the representative of the victim's estate or another family member (including a child).

CHAPTER 110—SEXUAL EXPLOITATION OF CHILDREN

Sec.
2251. Sexual exploitation of children.
2251A. Selling or buying of children.
2252. Certain activities relating to material involving the sexual exploitation of minors.
2253. Criminal forfeiture.
2254. Civil forfeiture.
2255. Civil remedy for personal injuries.
2256. Definitions for chapter.
2257. Record keeping requirements.

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CHAPTER 110A—VIOLENCE AGAINST SPOUSES

Sec. 2261. Traveling to commit spousal abuse.
Sec. 2262. Interstate violation of protection orders.
Sec. 2263. Restitution.
Sec. 2264. Full faith and credit given to protection orders.
Sec. 2265. Definitions for chapter.

§ 2261. Traveling to commit spousal abuse

(a) IN GENERAL.—Any person who travels or causes another (including the intended victim) to travel across State lines or in interstate commerce and who, during the course of any such travel or thereafter, does an act that injures his or her spouse or intimate partner in violation of a criminal law of the State where the injury occurs, shall be fined not more than $1,000 or imprisoned for not more than 5 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

(b) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

(4) If the offense is a simple assault by fine of not more than $1,000 or imprisonment of no more than 1 year.

(c) CRIMINAL INTENT.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, the criminal intent of the offender required to establish an offense under this section is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

§ 2262. Interstate violation of protection orders

(a) IN GENERAL.—Any person who travels or causes another (including the intended victim) to travel across State lines or in interstate commerce and who, during the course of such travel or thereafter, commits an act that violates a valid protection order issued by a State, with the intent to injure his or her spouse or intimate partner, shall be punished as follows:

(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or

imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

(5) If the offense is a simple assault by fine of not more than $1,000 or imprisonment for not more than 1 year, or both.

(b) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in this section is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

§ 2263. Interim protections

In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the benefit of the complaining spouse pending final adjudication of the case, upon a showing of a likelihood of danger to the complaining spouse.

§ 2264. Restitution

(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

(B) the United States Attorney enforce the restitution order by all available and reasonable means.

(2) For purposes of this subsection, the term "full amount of the victim's losses" includes any costs incurred by the victim for—

(A) medical services relating to physical, psychiatric, or psychological care;

(B) physical and occupational therapy or rehabilitation; and

(C) any income lost by the victim as a proximate result of the offense;

(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

(E) any other losses suffered by the victim as a proximate result of the offense.

(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

(A) the economic circumstances of the defendant; or

(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

(i) the financial resources and other assets of the defendant;

(ii) projected earnings, earning capacity, and other income of the defendant; and

(iii) any financial obligations of the offender, including obligations to dependents.

(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

(A) any Federal civil proceeding; and

(B) any State civil proceeding, to the extent provided by the law of the State.

(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

(e) DEFINITIONS.—For purposes of this section, the term "victim" includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including—

(1) in the case of a victim who is under 18 years of age, incompetent or incapacitated, the legal guardian of the victim or the victim's estate, another family member, or any other person designated by the court; and

(2) in the case of a victim who is deceased, the representative of the victim's estate or family member, including a child.

§ 2265. Full faith and credit given to protection orders

(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

(b) PROTECTION ORDER.—A protection issued by a State court is consistent with the provisions of this section if—

(1) such court has jurisdiction over the parties and matter under the law of such State; and

(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if no cross or counter petition or complaint was filed seeking such a protection order.

§ 2266. Definitions for chapter

As used in this chapter—

(1) the term "spouse or intimate partner" includes—

(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits with the abuser as a spouse; and

(B) any other person similarly situated to a spouse as defined by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

(2) the term "protection order" includes any injuction issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than child custody or support orders) whether obtained by filing an independent action or as a pendente lite order in

another proceeding so long as the order was issued in response to a complaint of an abused spouse or intimate partner; and

(3) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

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UNITED STATES CODE—TITLE 20

EDUCATION

* * * * * * *

1232G—Family Educational and Privacy Rights

* * * * * * *

(5) Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).

(6) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to a victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), the results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime with respect to such crime.

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UNITED STATES CODE—TITLE 28

JUDICIARY AND JUDICIAL PROCEDURE

Federal Rules of Evidence

* * * * * * *

Rule 412. Rape cases; relevance of victim's past behavior

(a) Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, reputation or opinion evidence of the past sexual behavior of an alleged victim of such offense is not admissible.

* * * * * * *

In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value

of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

* * * * * * *

(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim.

Rule 412A. Evidence of victim's past behavior in other criminal cases

(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of a alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

(2) the probative value of the evidence outweighs the danger of unfair prejudice.

(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence that the defendant seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice such evidence shall be admissible in

the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

Rule 412B. Evidence of past sexual behavior in civil cases

(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivison (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

(1) admitted in accordance with the procedures specified in subdivision (c); and

(2) the probative value of such evidence outweighs the danger of unfair prejudice.

(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence that the defendant seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. It its order, the court should consider (A) the chain of reasoning leading to its finding of rel-

evance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1990.

Rule 413. Evidence of victim's clothing as inciting violence

Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that alleged victim incited or invited the offense charged.

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95 Statute 535

THE PUBLIC HEALTH AND HEALTH SERVICES ACT

(Public Law 97-35)

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TITLE IX—HEALTH SERVICES AND FACILITIES

Subtitle A—Block Grants

PREVENTIVE HEALTH, HEALTH SERVICES, AND PRIMARY CARE HEALTH BLOCK GRANTS

SEC. 901. Effective October 1, 1981, the Public Health Service Act is amended by adding at the end the following new title:

"TITLE XIX—BLOCK GRANTS

"PART A—PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1901. (a) For the purpose of allotments under section 1902, there is authorized to be appropriated $95,000,000 for fiscal year 1982, $96,500,000 for fiscal year 1983, and $98,500,000 for fiscal year 1984.

[**"(b) Of the amount appropriated for any fiscal year under subsection (a), at least $3,000,000 shall be made available for allotments under section 1902(b).**]

* * * * * * *

"SEC. 1904. (a)(1) Except as provided in subsections (b) and (c), amounts paid to a State under section 1903 from its allotment

under section 1902(a) and amounts transferred by the State for use under this part may be used for the following:

* * * * * * *

[''(G) Providing services to rape victims and for rape prevention.

Amounts provided for the activities referred to in the preceding sentence may also be used for related planning, administration, and educational activities.]

* * * * * * *

§ 1910A. Use of allotments for rape prevention education

(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers of similar nongovernmental nonprofit entities, which programs may include—

(1) educational seminars;

(2) the operation of hotlines;

(3) training programs for professionals;

(4) the preparation of informational materials; and

(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for junior high school and high school students.

(c) There are authorized to be appropriated under this section for each fiscal year 1991, 1992, and 1993, $65,000,000 to carry out the purposes of this section.

(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

(e) For purposes of this section, the term ''rape prevention and education'' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.

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98 Statute 1763

FAMILY VIOLENCE PREVENTION AND SERVICES ACT

Public Law 98-457

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TITLE III—FAMILY VIOLENCE PREVENTION AND SERVICES

SHORT TITLE

SEC. 301. This title may be cited as the ''Family Violence Prevention and Services Act''.

DECLARATION OF PURPOSE

SEC. 302. It is the purpose of this title to—

(1) demonstrate the effectiveness of assisting States in efforts [to prevent] *to increase public awareness about and prevent* family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents; and

(2) provide for technical assistance and training relating to family violence programs to States, local public agencies (including law enforcement agencies), nonprofit organizations, and other persons seeking such assistance.

STATE DEMONSTRATION GRANTS AUTHORIZED

SEC. 303. (a)(1) In order to assist in supporting the establishment, maintenance, and expansion of programs and projects [to prevent] *to increase public awareness about and prevent* incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents, the Secretary is authorized, in accordance with the provisions of this title, to make demonstration grants to States.

(2) No demonstration grant may be made under this subsection unless the chief executive officer of the State seeking such grant submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(A) * * *

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(F) provide assurances that, within one year after receipt of funds under this subsection, the State will, provide assurances to the Secretary that the State has or has under consideration a procedure for the eviction of an abusing spouse from a shared residence; [and]

(G) provides assurances that, not later than 1 year after receipt of funds, the State shall have established a Commission on Domestic Violence to examine issues including—

(i) the use of mandatory arrest of accused offenders;

(ii) the adoption of "no-drop" prosecution policies;

(iii) the use of mandatory requirements for presentencing investigations;

(iv) the length of time taken to prosecute cases or reach plea agreements;

(v) the use of plea agreements;

(vi) the testifying by victims at post-conviction sentencing and release hearings;

(vii) the consistency of sentencing practices;

(viii) restitution of victims;

(ix) the reporting practices of and significance to be accorded to prior convictions (both felonies and misdemeanors); and

(x) such other matters as the Commission believes merit investigation.

In implementing this requirement, State grantees must certify to the Secretary that—

(aa) no less than one-third of the Commission members be victim advocates associated with nonprofit shelters; and

(bb) no more than 2 percent of the grant monies awarded shall be used to support the required Commission.

[(G)]*(H)* meet such requirements as the Secretary reasonably determines are necessary to carry out the purposes and provisions of this title.

(3) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove and after opportunity for correction of any deficiencies.

(b)(1) The Secretary [is authorized to make] *shall make from sums appropriated $1,000,000 available for* demonstration grants to Indian tribes and tribal organizations for projects designed to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents.

(2) No demonstration grant may be made under this subsection unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of this title. Such application shall comply, as applicable, with the provisions of clauses (C) (with respect only to involving knowledgeable individuals and organizations), (D), and (E) of subsection (a)(2).

(c) No demonstration grant may be made under this section in any fiscal year to any single entity (other than to a State) for an amount in excess of [$50,000 and the total amount of such grants to any such single entity may not exceed $150,000. A single entity may not be awarded demonstration grants under this section for a total period in excess of three fiscal years.] *$50,000.*

(d) No funds provided through demonstration grants made under this section may be used as direct payment to any victim of family violence or to any dependent of such victim.

(e) No income eligibility standard may be imposed upon individuals with respect to eligibility for assistance or services supported with funds appropriated to carry out this title.

(f) [No demonstration grant may be made under this section to any entity other than a State unless the entity provides for the following local share as a proportion of the total amount of funds provided under this title to the project involved: 35 percent in the first year such project receives a grant under this title, 55 percent in the second such year, and 65 percent in the third such year.] *No demonstration grant may be made under this section to an entity other than a State unless the entity provides 50 percent of the funding of the program or project funded by the grant.* Except in the case of a public entity, not less than 50 percent of the local share of such agency or organization shall be raised from private sources. The local share required under this subsection may be in cash or in kind. The local share may not include any Federal funds provided under any authority other than this title.

(g) The Secretary shall assure that [not less than 60 percent] *not less than 75 percent* of the funds distributed under subsection (a) or (b) shall be distributed to entities for the purpose of providing [immediate shelter and related assistance to victims of family violence and their dependents.] *shelter and related assistance to victims of family violence and their dependents, including any, but not requiring all of the following—*

(1) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

(2) transportation, legal assistance, referrals, and technical assistance with respect to obtaining financial assistance under Federal and State programs;

(3) comprehensive counseling about parenting, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services, employment training, social skills (including communication skills), home management, and assertiveness training; and

(4) day care services for children who are victims of family violence or the dependents of such victims.

* * * * * * *

SEC. 308. (a) The Secretary shall operate a national information and research clearinghouse on the prevention of family violence (including the abuse of elderly persons) in order to—

(1) collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and prevention of family violence (particularly the prevention of repeated incidents of violence) and the provision of immediate shelter and related assistance to victims of family violence and their dependents; and

(2) provide information about alternative sources of assistance available with respect to the prevention of incidents of family violence and the provision of immediate shelter and related assistance to victims of family violence and their dependents.

(b) The Secretary shall ensure that the activities of the national information and research clearinghouse operated under subsection (a) are coordinated with the information clearinghouse maintained by the National Center on Child Abuse and Neglect under section 2 of the Child Abuse Prevention and Treatment Act.

SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants or contracts with public or private nonprofit organizations, for the establishment and maintenance of one national resource center and five regional resource centers serving defined geographic areas. The national resource center shall offer resource, policy, and/or training assistance to Federal, State, and local agencies on issues pertaining to domestic violence, serve a coordinating and resource-sharing function among the regions, and maintain a central resource library. The regional resource centers

shall provide information, training and technical assistance to State and local domestic violence services. In addition, each regional center shall specialize in a unique area of domestic violence service, prevention or law, including one or more of the following:

(1) Public awareness and prevention education;

(2) Criminal justice response to domestic violence;

(3) Domestic violence related to child custody issues;

(4) Domestic violence victim self-defense;

(5) Clergy training on family violence;

(6) Child abuse and domestic violence;

(7) Medical personnel training;

(8) Enhancing victims' access to effective legal assistance; and

(9) Court-mandated abuser treatment.

(b) ELIGIBILITY.—Eligible grantees are private nonprofit organizations that—

(1) focus primarily on domestic violence;

(2) provide documentation to the Secretary demonstrating experience with issues of domestic violence, particularly in the specific area for which it is applying;

(3) include on its advisory boards representatives from domestic violence programs in the region who are geographically and culturally diverse; and

(4) demonstrate strong support from domestic violence advocates in the region for their designation as the regional resource center.

(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.

(e) FUNDING.—From the sums appropriated under section 310 of this title, not in excess of $2,000,000 for each fiscal year shall be used for the purpose of making grants under this section.

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[AUTHORIZATION OF APPROPRIATIONS

[SEC. 310. (a) There are authorized to be appropriated to carry out the provisions of this title $11,000,000 for fiscal year 1985 and $26,000,000 for each of the fiscal years 1986 and 1987.

[(b) Of the sums appropriated under subsection (a) for any fiscal year, not less than 85 percent shall be used by the Secretary for making grants under section 303.]

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to carry out the provisions of this title, $75,000,000 for each of the fiscal years 1991, 1992 and 1993.

(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 85 percent shall be used by the Secretary for making grants under section 303.

(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS AND CONTRACTS

SEC. 311. (a) From the amount appropriated pursuant to section 310 for any fiscal year, the Secretary shall make grants and enter into contracts for the purpose of providing regionally-based training and technical assistance to provide the personnel of local and State law enforcement agencies with means for responding to incidents of family violence.

(b) Grants and contracts under this section shall be awarded competitively on the basis of an application containing such information and assurances as the Secretary may require by regulation. In selecting grant and contract receipients, the Secretary shall select recipients who have demonstrated their effectiveness in preparing the personnel of local and State law enforcement agencies for the handling of incidents of family violence and shall give priority to those applications which propose projects or programs which will develop, demonstrate, or disseminate information with respect to imporved techniques for responding to incidents of family violence by law enforcement officers.

(c) The Secretary shall delegate to the Attorney General of United States the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General from funds appropriated under section 310 not in excess of $2,000,000 for each fiscal year to be used for the purpose of making grants under this section.

(d) Training grants may be made under this section only to private nonprofit organizations that have experience in providing training and technical assistance to law enforcement personnel on a national or regional basis.

SEC. 312. ENCOURAGING ARREST POLICIES.

(a) PURPOSE.—To encourage States and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, municipalities, or local government entities for the following purposes:

(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

(b) ELIGIBILITY.—(1) Eligible grantees are those States, municipalities or other local government entities that—

(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

(B) certify that their laws or official policies—

(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority.

(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than child custody or support orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

(3) For purposes of this section, the term 'spousal or spouse abuse' inlcudes abuse of a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits with the abuser as a spouse.

(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

(1) contain a certification by the chief executive officer of the State, municipality, or local government entity that the conditions of subsection (b) are met;

(2) describe the entity's plans to further the purposes listed in subsection (a);

(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

(4) identify the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

(1) does not currently provide for centralized handing of cases involving spousal or family violence in any one of the areas listed in this subsection-police, prosecutors, and courts; and

(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

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GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

(c) An application submitted under subsection (b) shall—

(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

(2) include a complete description of the plan of the application for the development of a public information campaign;

(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

(7) contain such other information as the Secretary may require.

(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

(e) The criteria for awarding grants shall ensure that an applicant—

(1) will conduct activities that educate communities and groups at greatest risk;

(2) has a record of high quality campaigns of a comparable type; and

(3) has a record of high quality campaigns that educate the population groups identified as most at risk.

MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

(1) increase the number of prosecutions for domestic violence crimes;

(2) encourage the reporting of incidences of domestic violence; and

(3) facilitate "mandatory arrests" and "no drop" prosecution policies.

(b) To be designated as a model State under subsection (a), a State shall have in effect—

(1) a law the requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

(2) develop and disseminate statewide prosecution policies that—

(A) include a no-drop policy once prosecution is underway;

(B) implement model projects for the vertical prosecution of domestic violence cases and special units devoted to domestic violence;

(C) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

(D) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

(3) develop and disseminate statewide guidelines for judges that—

(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only one spouse has sought a restraining or protective order;

(B) discourage custody or joint custody orders by spouse abusers; and

(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

(4) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993.

(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.

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100 Statute 1567

HIGHER EDUCATION AMENDMENTS OF 1986

(Public Law 99-498)

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TITLE X—IMPROVEMENT OF POSTSECONDARY EDUCATION

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"PART C—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

STATEMENT OF PURPOSE

SEC. 1061. It is the purpose of this part to support innovative projects in order to determine the feasibility of encouraging student participation in community service projects in exchange for educational services or financial assistance and thereby reduce the debt acquired by students in the course of completing postsecondary educational programs.

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PART D—GRANTS FOR CAMPUS RAPE EDUCATION

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (c) of this section.

(b) GRANTS FOR MODEL DEMONSTRATION PROJECTS.—Grants shall be available for model demonstration programs to be coordinated with local rape crisis centers for development and implementation of quality rape prevention and education curricula and for programs that make use of peer-to-peer student education.

(c) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants shall be available under this subsection to develop, implement, operate, and improve rape education and prevention for students enrolled in institutions of higher education.

(d) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

(2) Each such application shall—

(A) set forth the activities and programs to be carried out with funds paid under this part;

(B) contain an estimate of the cost for the establishment and operation of such programs;

(C) explain how the program intends to address the issue of acquaintance rape;

(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

(2) For purposes of this subchapter, the following terms have the following meanings:

(A) The term "rape education and prevention" includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

(B) The term "Secretary" means the Secretary of Education.

(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

(A) the amount of grants made under this section;

(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $10,000,000 for the fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994.

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101 Statute 237

THE SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987

(Public Law 100-17)

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CRIME PREVENTION AND SECURITY

SEC. 24. From funds made available pursuant to section 21 of this Act, the Secretary is authorized to make capital grants to public mass transit systems for crime prevention and security. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).

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ANTI-DRUG ABUSE ACT OF 1988

(Public Law 100-690)

PART M—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

SEC. 1301. REGIONAL INFORMATION SHARING SYSTEMS GRANTS.

(a) * * *

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(b) TECHNICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part N and section 1401, and inserting in lieu thereof the following new items:

PART M—REGIONAL INFORMATION SHARING SYSTEMS GRANTS
Sec. 1301. Regional information sharing systems grants.

PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women including the crimes of sexual assault and domestic violence;

(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

(5) developing, enlarging, or strengthening victim services programs working with, connected to, or within police departments, courts, prosecutors' offices or hospitals to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

(c) GRANTS FOR MULTIPLE USES.—Grants under this part must be used for at least 3 of the 5 purposes listed in subsection (b).

Subpart 1—High Intensity Crime Area Grants

SEC. 1411. HIGH INTENSITY GRANTS.

(a) IN GENERAL. The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the "Director") shall make grants to areas of "high intensity crime" against women.

(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crimes against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of 40 areas with the highest rates of violent crimes against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

(b) USE OF DATA.—In developing the list required by subsection (a), the Bureau of Justice Statistics may rely on—

(1) existing data for reported crimes collected by States, municipalities or statistical metropolitan areas; and

(2) existing data for reported crimes collected by the Federal Bureau of Investigation, including data from those entities already complying with the National Incident Based Reporting System.

(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

(1) the funds shall be used to reduce the rate of violent crimes against women, and for at least 3 of the purposes outlined in section 1401(b);

(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services

(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (c), including a description of the nongovernmental nonprofit victim services programs to be consulted or assisted.

(f) DISBURSEMENT.—

(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

(A) equitably distribute funds on a geographic basis;

(B) determine the amount of subgrants based on the population to be served; and

(C) give priority to areas with the greatest showing of need.

(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with

the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

SEC. 1421. GENERAL GRANTS TO STATES.

(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and reduce the rate of violent crimes against women.

(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

(1) $500,000 to each State; and

(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs;

(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications required by subsection (c), including a description of nonprofit nongovernmental victim services programs to be consulted or assisted.

(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an appliation under this supart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 200,000;

(B) determine the amount of subgrants based on the population to be served; and

(C) give priority to areas with the greatest showing of need.

(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

(g) ELIGIBILITY OF STATES.—No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State incurs the full cost of forensic medical exams for victims of sexual assault. A State does not incur the medical cost of forensic medical exams if it chooses to reimburse the victims after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits application for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

(h) TESTING CERTAIN SEX OFFENDERS FOR HUMAN IMMUNODEFICIENCY VIRUS.—(1) For any fiscal year beginning more than 2 years after the exclusive date of this subsection—

(A) 90 percent of the funds allocated under subsection (a), without regard to this subsection, to a State described in paragraph (2) shall be distributed by the Director to such State; and

(B) 10 percent of such amount shall be allocated equally among States that are not affected by the operation of subparagraph (A).

(2) Paragraph (1)(A) refers to a State that does not have in effect, and does not enforce, in such fiscal year, a law that requires the States at the request of the victim of a sexual act—

(A) to administer, to the defendant convicted under State law of such sexual act, a test to detect in such defendant the presence of the etiologic agent for acquired immune deficiency syndrome; and

(B) to disclose the results of such test to such defendant and to the victim of such sexual act.

(C) to provide to the victim of such sexual act counseling regarding HIV disease, HIV testing, in accordance with applicable law, and referral for appropriate health care and support services.

(3) For purposes of this subsection—

(A) the term "convicted" includes adjudicated under juvenile proceedings; and

(B) the term "sexual act" has the meaning given such term in subparagraph (A) or (B) of section 2245(1) of title 18, United States Code.

Subpart 3—General Terms and Conditions

SEC. 1431. GENERAL DEFINITIONS.

As used in this part—

(1) the term "victim services program" means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis

centers or battered women's shelters, and (B) victim/witness programs within governmental entities;

(2) the term "sexual assault" includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to victim; and

(3) the term "domestic violence" includes felony and misdemeanor offenses committed by a present or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person defined as a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies.

SEC. 1432. GENERAL TERMS AND CONDITIONS.

(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State (as provided in subpart 2)—

(1) the amount of grants made under this part;

(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

(3) a copy of each grantee report filed pursuant to sections 1412(f) and 1421(f).

(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1991, 1992, and 1993, $200,000,000 to carry out the purposes of subpart 1, and $100,000,000 to carry out the purposes of subpart 2.

PART [N] *O*—TRANSITION; EFFECTIVE DATE; REPEALER

SEC. [1401] *1501.* Continuation of rules, authorities, and proceedings.

IX. APPENDIX: JUDICIARY COMMITTEE HEARINGS ON VIOLENCE AGAINST WOMEN IN AMERICA

WEDNESDAY, JUNE 20, 1990

Washington, DC

Nancy Ziegenmeyer, Des Moines, IA.

Marla Hanson, New York, NY.

Linda Fairstein, chief, Sex Crimes Prosecution Unit, District Attorney's Office, New York, NY.

Helen Neuborne, executive director, NOW Legal Defense and Education Fund, New York, NY.

Roni Young, director, Violence Unit, State's Attorney's Office, Baltimore, MD.

WEDNESDAY, AUGUST 29, 1990

Washington, DC

Christine Shunk, Philadelphia, PA.

Nicole Snow, New York, NY.

Dr. Mary Koss, Psychologist, University of Arizona Medical School.

Robin Warshaw, author, Pennsauken, NJ.

Erica Strohl, student, Philadelphia, PA.

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